

SENATE JOURNAL

EIGHTIETH LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

SIXTY-FIFTH DAY

(Friday, May 18, 2007)

The Senate met at 10:15 a.m. pursuant to adjournment and was called to order by Dean Whitmire.

The roll was called and the following Senators were present: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Absent-excused: Gallegos.

The Presiding Officer announced that a quorum of the Senate was present.

The Reverend Richard E. Carter, Mount Olive Baptist Church, Austin, offered the invocation as follows:

Dear God and our heavenly Father, we come before You with gratefulness in heart and mind. We thank You for another opportunity to advance Your kingdom and bless Your people. We humbly submit ourselves to Your will and strive to do Your work in the world. Bless us this day, and help us to be a blessing. Amen.

Senator Wentworth moved that the reading of the Journal of the proceedings of yesterday be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

LEAVE OF ABSENCE

On motion of Senator Wentworth, Senator Gallegos was granted leave of absence for today on account of illness.

CO-SPONSOR OF HOUSE BILL 52

On motion of Senator Harris, Senator Shapleigh will be shown as Co-sponsor of **HB 52**.

CO-SPONSOR OF HOUSE BILL 1168

On motion of Senator Shapleigh, Senator Uresti will be shown as Co-sponsor of **HB 1168**.

CO-SPONSOR OF HOUSE BILL 1633

On motion of Senator Deuell, Senator Shapleigh will be shown as Co-sponsor of **HB 1633**.

CO-SPONSOR OF HOUSE BILL 2350

On motion of Senator Patrick, Senator West will be shown as Co-sponsor of **HB 2350**.

CO-SPONSORS OF HOUSE BILL 3575

On motion of Senator Nelson, Senators Shapleigh and Uresti will be shown as Co-sponsors of **HB 3575**.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 18, 2007

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HB 3984, Relating to the creation of the Double Platinum Ranch Water Control and Improvement District No. 1 of Grayson County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

HB 3990, Relating to the creation of the Burnet County Water Control and Improvement District No. 1; providing authority to impose a tax and issue bonds.

HB 4013, Relating to the creation of the Spectrum Management District; providing authority to levy an assessment, impose a tax, and issue bonds.

HB 4033, Relating to the creation of the Ledbetter Utility District No. 1 of Kaufman and Rockwall Counties; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

HB 4034, Relating to the creation of the Ledbetter Utility District No. 2 of Kaufman and Rockwall Counties; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

HB 4044, Relating to the qualifications and method of electing directors of the Mustang Special Utility District.

HB 4066, Relating to the creation of the NASA Area Management District; providing authority to impose an assessment, impose a sales and use tax, and issue bonds.

HB 4085, Relating to the creation of the Triple Creek Municipal Management District; providing authority to levy an assessment, impose a tax, and issue bonds.

HB 4088, Relating to the Plum Creek Conservation District.

HB 4096, Relating to the creation of the King's Crossing Municipal Utility District of Grayson County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

HB 4126, Relating to the regulation of certain quarries located along the headwaters of the Upper Guadalupe River by the Upper Guadalupe River Authority.

HB 4134, Relating to the creation of the Harris County Improvement District No. 10; providing authority to impose a tax and issue bonds.

HB 4139, Relating to the creation of a county court at law in Van Zandt County.

HCR 1, Memorializing Congress to support legislation for veterans' health care budget reform.

HCR 114, In memory of the Honorable John J. Gavin of Wichita Falls.

HCR 200, Memorializing Congress to reopen consideration of posthumously awarding WWI hero Marcelino Serna the Medal of Honor.

HCR 222, Encouraging the board of the Texas Youth Commission, or its successor entity, to name the TYC facility in Sheffield in honor of William David Slaughter, Jr.

SB 12, Relating to programs for the enhancement of air quality, including energy efficiency standards in state purchasing and energy consumption; providing penalties. (Committee Substitute/Amended)

SB 24, Relating to certain health care services provided through telemedicine or telehealth under the state Medicaid program.

SB 218, Relating to licensing and inspection requirements of the Department of Family and Protective Services for certain facilities. (Committee Substitute)

SB 255, Relating to reports and information provided by the Texas Department of Transportation. (Amended)

SB 295, Relating to the administration of polygraph examinations to certain officers and employees of the Department of Public Safety of the State of Texas.

SB 324, Relating to contingent payment clauses in certain construction contracts. (Amended)

SB 329, Relating to an object or material placed on or attached to a window of a commercial motor vehicle.

SB 361, Relating to the deadline for submitting a federal postcard application to the early voting clerk. (Amended)

SB 387, Relating to loose material transported by vehicle. (Committee Substitute)

SB 545, Relating to the enforcement of commercial motor vehicle safety standards by certain peace officers.

(Amended)

SB 548, Relating to notice of the presumption for theft by check.

(Amended)

SB 723, Relating to requiring that the Department of Family and Protective Services maintain and report certain information in connection with the placement of children.

(Amended)

SB 772, Relating to conditions of employment for certain peace officers.

(Committee Substitute/Amended)

SB 867, Relating to procedures regarding criminal defendants who are or may be persons with mental illness or mental retardation.

SB 914, Relating to the continuation and functions of the Texas Real Estate Commission and the regulation of real estate brokers, salespersons, inspectors, appraisers, residential service companies, and timeshares; providing administrative penalties.

(Committee Substitute/Amended)

SB 932, Relating to the required contents of a voter registration certificate.

SB 943, Relating to the licensing and regulation of wholesale distributors of prescription drugs; providing penalties.

(Amended)

SB 955, Relating to use of electronically readable information on a driver's license or personal identification certificate by certain organizations that sponsor youth programs.

SB 968, Relating to financing tools for certain obligations for public improvements.

(Committee Substitute)

SB 1154, Relating to regulation of metal recycling entities; providing penalties.

(Committee Substitute/Amended)

SB 1169, Relating to the reimbursement of an insurance carrier for the overpayment of certain workers' compensation benefits.

(Amended)

SB 1215, Relating to the quantity of beer or malt liquor a distributor or wholesaler may withdraw from a retailer.

SB 1217, Relating to fees for and terms of permits and licenses issued by the Texas Alcoholic Beverage Commission.

(Amended)

SB 1434, Relating to the selection of election officers for early voting for the general election for state and county officers.

(Amended)

SB 1499, Relating to the meeting notice that a governmental body may post in certain emergency situations.

(Amended)

SB 1541, Relating to the Uniform Commercial Code provisions relating to negotiable instruments.

SB 1709, Relating to procedures to limit the carrying of handguns by persons other than peace officers on certain premises used for law enforcement.

SB 1723, Relating to the collection of surcharges assessed under the driver responsibility program.

(Committee Substitute/Amended)

SB 1781, Relating to technical defects in instruments conveying real property.

(Amended)

SB 1828, Relating to the use of certain electronically readable information on a driver's license to comply with certain alcohol-related laws.

(Amended)

THE HOUSE HAS CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 195 (144 Yeas, 0 Nays, 1 Present, not voting)

HB 2439 (133 Yeas, 1 Nays, 1 Present, not voting)

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

SB 893 (144 Yeas, 0 Nays, 1 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

PHYSICIAN OF THE DAY

Senator Williams, on behalf of Senator Ogden, was recognized and presented Dr. Jennifer Cameron of Georgetown as the Physician of the Day.

The Senate welcomed Dr. Cameron and thanked her for her participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

SENATE RESOLUTION 1074

Senator Nelson offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Lance Armstrong for his outstanding efforts on behalf of cancer research; and

WHEREAS, At the age of 25, Lance Armstrong was acknowledged as one of the world's best cyclists; he had won the World Championships, the Tour Du Pont, and multiple Tour de France stages when he was diagnosed with cancer in 1996; and

WHEREAS, Lance declared himself to be a survivor and took an active role in educating himself about his disease; armed with the knowledge he had gained, he underwent an aggressive treatment regimen and conquered the disease; and

WHEREAS, In 1997, Lance established the Lance Armstrong Foundation; the nonprofit organization funds research projects and awareness campaigns and educational programs related to fighting and preventing cancer; and

WHEREAS, In one of the greatest comeback stories in sports, Lance won the first of his record seven consecutive Tours de France less than three years after being diagnosed with cancer; over the years the Lance Armstrong Foundation has continued to grow, establishing the Founder's Circle and the grassroots fundraising initiative; and

WHEREAS, The Lance Armstrong Foundation has funded numerous grants and programs, including Wonders and Worries in Austin, the LIVESTRONG Young Adult Alliance, and the Young Investigator research grants; one of the major sources of funding has been the LIVESTRONG wristband, which in 2005 alone sold more than 55 million wristbands; and

WHEREAS, Lance Armstrong has served as a personal inspiration to millions of cancer survivors, and the Lance Armstrong Foundation has had a profound impact on the struggle to find a cure for cancer; Lance Armstrong and the members of his foundation truly deserve recognition for their dedication and commitment in the fight against this deadly disease; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby commend Lance Armstrong for his exemplary courage, leadership, and tenacity in the ongoing war against cancer; and, be it further

RESOLVED, That a copy of this Resolution be prepared for him as an expression of esteem from the Texas Senate.

NELSON
WATSON

SR 1074 was read and was adopted without objection.

GUESTS PRESENTED

Senator Nelson, joined by Senator Watson, was recognized and introduced to the Senate Lance Armstrong and his mother, Linda Armstrong Kelly.

The Senate welcomed its guests.

SENATE RESOLUTION 1071

Senator Uresti offered the following resolution:

WHEREAS, The Honorable Antonio Perez Villarreal, mayor of Fort Stockton, has distinguished himself as a dedicated and accomplished community leader throughout his noteworthy tenure in public service; and

WHEREAS, Raised in Rocksprings, Tony Villarreal began his career as a civic leader at the age of 19, when he was elected to his hometown's city council; by age 21, he had won a seat on the Edwards County Commissioners Court, making him the youngest county commissioner in Texas and the first Hispanic to hold an elected office in Edwards County; and

WHEREAS, In 1989, Mr. Villarreal and his family moved to Fort Stockton, where he served his fellow Texans as a member of the Fort Stockton Independent School District Board of Trustees and the Pecos County Commissioners Court; he was appointed by Governor Ann Richards to the Permian Basin Regional Review Committee and the Texas Department of Adult Protective Services Advisory Board, and he continued to better his community and state through his important work with such worthy organizations as the Fort Stockton Main Street Advisory Board and the Hospice of the Southwest Board of Directors; and

WHEREAS, The first Hispanic elected to the West Texas County Judges and Commissioners Board, Mr. Villarreal reached a milestone in his career in 2003 when he was elected the first Hispanic mayor of Fort Stockton; he has since fulfilled his many responsibilities with his characteristic integrity and dedication to duty; in his position as mayor, he has worked with numerous area committees and boards, including the Fort Stockton Convention and Visitors Bureau, the Texas Municipal League, and the Permian Basin Airport Advisory Board; and

WHEREAS, Through the years, Mayor Villarreal has contributed to his church as a member of the Parish Finance Council and Ushers Committee and as a CCE instructor; moreover, his community efforts have benefited the Fort Stockton Hispanic Chamber of Commerce, the Knights of Columbus, the Boy Scouts of America, the Kiwanis Club, and many other organizations; and

WHEREAS, For 29 years, Mayor Villarreal has enjoyed the love and support of his wife, Lisa Trevino Villarreal, who was elected Pecos County district clerk in 2002, and together the couple take great pride in their children, Annalisa, T. J., and Jon-Erik, and their grandchildren, Victoria, Justin, David, Aralynn, and Lauren; and

WHEREAS, Throughout Tony Villarreal's nearly three decades of public service, he has set a high standard of achievement to which others may aspire, and he is indeed an inspiration to all who know him; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby commend Antonio Perez Villarreal for his outstanding career and extend to him best wishes for the future; and, be it further

RESOLVED, That a copy of this Resolution be prepared for Mayor Villarreal as an expression of high regard from the Texas Senate.

SR 1071 was read and was adopted without objection.

GUESTS PRESENTED

Senator Uresti was recognized and introduced to the Senate Antonio Perez Villarreal, Mayor of Fort Stockton, accompanied by his wife, Lisa, and their son, Jon-Erik.

The Senate welcomed its guests.

SENATE RESOLUTION 1065

Senator Nelson offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize The Colony High School girls soccer team of the Lewisville Independent School District for winning the 2007 University Interscholastic League Class 4A state championship title; and

WHEREAS, The Colony High School Lady Cougars defeated the Friendswood Mustangs 1-0 in the championship game two days after dominating Lake Travis in the semifinals; and

WHEREAS, Playing in winds up to 30 miles per hour, both teams were limited to controlled passing attacks and were unable to play the ball deep when going into the wind; and

WHEREAS, The Lady Cougars displayed superior talent and perseverance, and the success of their team attests to each player's commitment to the team's goals; and

WHEREAS, These young women are excellent athletes and a source of pride to their families, their fellow students, and The Colony community, and they deserve recognition for their outstanding achievement; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby congratulate The Colony High School Lady Cougars on winning the Class 4A girls soccer state championship title and extend to them best wishes for the future; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the team as an expression of esteem from the Texas Senate.

SR 1065 was read and was adopted without objection.

GUESTS PRESENTED

Senator Nelson was recognized and introduced to the Senate the girls soccer team of The Colony High School, 2007 Class 4A state champions.

The Senate welcomed its guests.

GUEST PRESENTED

Senator Watson was recognized and introduced to the Senate Coach Jody Conradt, former women's basketball coach at The University of Texas at Austin.

The Senate welcomed its guest.

SENATE RESOLUTION 1063

Senator Zaffirini offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Charles Anthony "Tony" Reyes, who has been selected as Youth of the Year by the United States Border Patrol; and

WHEREAS, A senior at John B. Alexander High School, Tony has set a stellar example for others to follow during his high school career; he maintained the number one class ranking for four years; and

WHEREAS, Tony is a three-year member of the National Honor Society and has won many awards at University Interscholastic League meets for number sense, mathematics, and journalism; an outstanding musician, he has been a trumpet section leader in the John B. Alexander High School Band and has been named to all-region, all-district, and all-area in mariachi, jazz, and band; and

WHEREAS, He has been active in community and civic affairs, participating in the Shattered Dreams event to prevent impaired driving, tutoring at South Texas Educational Services, and performing at festivals and community celebrations with a mariachi band; he truly deserves acknowledgement for his many accomplishments; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby commend Charles Anthony Reyes for his many accomplishments and extend congratulations to him on being selected as Youth of the Year by the United States Border Patrol; and, be it further

RESOLVED, That a copy of this Resolution be prepared for him as an expression of esteem from the Texas Senate.

SR 1063 was read and was adopted without objection.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate Charles Anthony "Tony" Reyes, United States Border Patrol Youth of the Year, accompanied by his family and Border Patrol representatives.

The Senate welcomed its guests.

SENATE RESOLUTION 1081

Senator Hinojosa offered the following resolution:

SR 1081, In memory of Alejandro Ochoa, Sr., of Edinburg.

The resolution was read.

Senator Hinojosa was recognized and introduced to the Senate family members of Alejandro Ochoa, Sr.: his widow, Hilda Ochoa; his sons, Alejandro Ochoa, Jr., and Alberto Ochoa; his sister, Alicia O. Rodriguez; and his brother, Joe Ochoa.

The Senate welcomed its guests and extended its sympathy.

On motion of Senator Hinojosa, **SR 1081** was adopted by a rising vote of the Senate.

In honor of the memory of Alejandro Ochoa, Sr., of Edinburg, the text of the resolution is printed at the end of today's *Senate Journal*.

GUESTS PRESENTED

Senator Duncan was recognized and introduced to the Senate Marsha Sharp, women's basketball coach at Texas Tech University, and Kent Hance, Chancellor, Texas Tech University System.

The Senate welcomed its guests.

SENATE RULE 11.13 SUSPENDED (Consideration of Bills in Committees)

On motion of Senator West and by unanimous consent, Senate Rule 11.13 was suspended to grant the Committee on Intergovernmental Relations permission to meet while the Senate was meeting today.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator West and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Intergovernmental Relations might meet and consider **HB 4015** today.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read first time and referred to the committees indicated:

HB 3984 to Committee on Natural Resources.

HB 3990 to Committee on Natural Resources.

HB 4013 to Committee on Natural Resources.

HB 4033 to Committee on Natural Resources.

HB 4034 to Committee on Natural Resources.

HB 4044 to Committee on Natural Resources.

HB 4066 to Committee on Natural Resources.

HB 4085 to Committee on Natural Resources.

HB 4088 to Committee on Natural Resources.

HB 4096 to Committee on Natural Resources.

HB 4126 to Committee on Natural Resources.

HB 4134 to Committee on Natural Resources.

HB 4139 to Committee on Natural Resources.

CONCLUSION OF MORNING CALL

The Presiding Officer, Senator Whitmire in Chair, at 11:22 a.m. announced the conclusion of morning call.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2352 ON SECOND READING**

Senator Ellis moved to suspend the regular order of business to take up for consideration **CSHB 2352** at this time on its second reading:

CSHB 2352, Relating to a registered property tax consultant.

The motion prevailed.

Senator Nelson asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2352** (Senate committee printing) by striking SECTION 3 of the bill, adding Section 1152.163, Occupations Code (page 1, lines 29 through 37), and by renumbering the subsequent SECTION of the bill accordingly.

The amendment to **CSHB 2352** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Gallegos.

On motion of Senator Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2352 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Nelson.

Absent-excused: Gallegos.

COMMITTEE SUBSTITUTE HOUSE BILL 2352 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2352** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Nelson.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

GUESTS PRESENTED

Senator Ellis was recognized and introduced to the Senate students from the Energized for Excellence Academy in Houston, representing the Prepared 4 Life program, accompanied by their teachers and sponsors.

The Senate welcomed its guests.

COMMITTEE SUBSTITUTE HOUSE BILL 2639 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2639** at this time on its second reading:

CSHB 2639, Relating to risk management programs for members and advisors of student organizations at public and private postsecondary educational institutions and to certain insurance requirements for fraternities.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2639 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2639** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1804 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1804** at this time on its second reading:

HB 1804, Relating to the prosecution of the offense of improper photography or visual recording.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 1804 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1804** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 271 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 271** at this time on its second reading:

HB 271, Relating to disclosure by a home seller of previous use of the home for manufacture of methamphetamine.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 271 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 271** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

GUEST PRESENTED

Senator Lucio was recognized and introduced to the Senate Chris Boswell, Mayor of Harlingen.

The Senate welcomed its guest.

(Senator Brimer in Chair)

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 18, 2007

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 228, In memory of Bruce B. Cloud of San Antonio.

HCR 231, In memory of Beaumont police officer Lisa Renee Ligda Beaulieu.

HCR 232, Congratulating Ernesto Munoz of Midland on being named a 2007 Exemplary Migrant Student by the Migrant Student Graduation Enhancement Program of The University of Texas at Austin.

HCR 233, In memory of Teresa Terry of Pflugerville.

HCR 248, Honoring Fred H. Tally Elementary School in Kerrville on its selection as a 2006-2007 National Title I Distinguished School.

SCR 38, Commemorating the 200th anniversary of the birth of James Pinckney Henderson.

SCR 70, Congratulating Lawrence Wright for being awarded the 2007 Pulitzer Prize for General Nonfiction.

SCR 71, Commending the farmers of Medina and Uvalde counties in the Edwards Aquifer region for their water conservation efforts.

SCR 72, Recognizing May 4, 2007, as East End Chamber Day.

THE HOUSE HAS TAKEN THE FOLLOWING OTHER ACTION:

HJR 19

Point of order sustained due to non-germane Senate amendments. The House hereby returns HJR 19 to the Senate for further action.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

**COMMITTEE SUBSTITUTE
HOUSE BILL 724 ON SECOND READING**

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 724** at this time on its second reading:

CSHB 724, Relating to workers' compensation claims for certain medical benefits, death benefits, and burial benefits.

The bill was read second time.

Senator Jackson moved to postpone further consideration of the bill to a time certain of 12:15 p.m. today.

The motion prevailed.

Question — Shall **CSHB 724** be passed to third reading?

HOUSE BILL 2391 ON SECOND READING

Senator Seliger moved to suspend the regular order of business to take up for consideration **HB 2391** at this time on its second reading:

HB 2391, Relating to the appearance of certain misdemeanor offenders before a magistrate.

The motion prevailed.

Senator Patrick asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Patrick.

Absent-excused: Gallegos.

HOUSE BILL 2391 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2391** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Patrick.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

HOUSE BILL 842 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 842** at this time on its second reading:

HB 842, Relating to public access to personal financial statements filed by judges and justices.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 842 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 842** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE

HOUSE BILL 2548 ON SECOND READING

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2548** at this time on its second reading:

CSHB 2548, Relating to coverage limitations in health benefit plans.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2548 ON THIRD READING**

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2548** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1709 ON SECOND READING

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1709** at this time on its second reading:

HB 1709, Relating to bonds required of guardians and other personal representatives.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 1709 ON THIRD READING

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1709** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 54 ON SECOND READING

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 54** at this time on its second reading:

HB 54, Relating to the advertising, promoting, and conducting of certain live musical performances; providing a civil penalty.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 54 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 54** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 48 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 48** at this time on its second reading:

HB 48, Relating to distributions from the employment and training investment holding fund.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 48 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 48** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 738 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 738** at this time on its second reading:

HB 738, Relating to an exemption from Texas Commission on Fire Protection training requirements for certain aircraft fire fighting and rescue fire protection personnel.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 738 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 738** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 95 ON SECOND READING

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 95** at this time on its second reading:

HB 95, Relating to interference with child custody in violation of a temporary child custody order; imposing a criminal penalty.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 95 ON THIRD READING

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 95** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1029 ON SECOND READING

Senator Carona moved to suspend the regular order of business to take up for consideration **HB 1029** at this time on its second reading:

HB 1029, Relating to an exemption from electrician licensing requirements for certain work performed by a plumber.

The motion prevailed.

Senator Patrick asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Patrick.

Absent-excused: Gallegos.

HOUSE BILL 1029 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1029** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Patrick.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

HOUSE BILL 2504 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2504** at this time on its second reading:

HB 2504, Relating to an intensive mathematics and algebra intervention pilot program in public schools.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 2504 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2504** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 412 ON SECOND READING

Senator Carona moved to suspend the regular order of business to take up for consideration **CSHB 412** at this time on its second reading:

CSHB 412, Relating to erecting or maintaining certain outdoor signs or advertising; creating an offense; providing penalties.

The motion prevailed.

Senator Estes asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Estes.

Absent-excused: Gallegos.

COMMITTEE SUBSTITUTE HOUSE BILL 412 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 412** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Estes.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

HOUSE BILL 321 ON SECOND READING

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 321** at this time on its second reading:

HB 321, Relating to the establishment of a pilot program by the Health and Human Services Commission to accept importation of electronic eligibility information from a regional indigent care provider.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 321 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 321** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2293 ON SECOND READING

Senator Watson moved to suspend the regular order of business to take up for consideration **HB 2293** at this time on its second reading:

HB 2293, Relating to a requirement that state agencies purchase low-emissions vehicles as a minimum percentage of their vehicles purchased.

The motion prevailed.

Senator Seliger asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Seliger.

Absent-excused: Gallegos.

HOUSE BILL 2293 ON THIRD READING

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2293** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Seliger.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 2761 ON SECOND READING

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2761** at this time on its second reading:

CSHB 2761, Relating to requirements governing suitability in certain annuity transactions with consumers.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2761 ON THIRD READING**

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2761** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2589 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2589** at this time on its second reading:

HB 2589, Relating to the imposition of a civil penalty in connection with a self-corrected statement, registration, or report filed with the Texas Ethics Commission.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 2589 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2589** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 3473 ON SECOND READING

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3473** at this time on its second reading:

HB 3473, Relating to consent for medical treatment.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 3473 ON THIRD READING

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3473** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2626 ON SECOND READING

On motion of Senator Janek and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2626** at this time on its second reading:

HB 2626, Relating to purchases made at the campus level in certain school districts.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 2626 ON THIRD READING

Senator Janek moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2626** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2565 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2565** at this time on its second reading:

HB 2565, Relating to the establishment of an advisory committee on motor vehicle inspections related to safety and emissions.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 2565 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2565** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1170 ON SECOND READING

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1170** at this time on its second reading:

HB 1170, Relating to the regulation and limitation of liability of persons engaged in certain liquefied petroleum gas-related activities, including requirements concerning consumer safety notification.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 1170 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1170** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 3352 ON SECOND READING**

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3352** at this time on its second reading:

CSHB 3352, Relating to municipal civil service for firefighters and police officers in certain municipalities.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3352 ON THIRD READING**

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3352** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1129 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1129** at this time on its second reading:

HB 1129, Relating to the prosecution and punishment of the offense of criminal trespass.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the pasage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 1129 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1129** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 3106 ON SECOND READING**

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3106** at this time on its second reading:

CSHB 3106, Relating to the implementation of enterprise resource planning by the comptroller.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3106 ON THIRD READING**

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3106** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1268 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1268** at this time on its second reading:

HB 1268, Relating to the award of attorney's fees under the terms of certain contracts with a governmental entity.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 1268 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1268** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1767 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1767** at this time on its second reading:

HB 1767, Relating to the punishment for criminal mischief committed by interfering with certain transportation signs, signals, or devices.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 1767 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1767** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2348 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2348** at this time on its second reading:

HB 2348, Relating to prohibiting alcoholic beverage license or permit application by certain persons.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 2348 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2348** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2591 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2591** at this time on its second reading:

HB 2591, Relating to county improvement of subdivision roads.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 2591 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2591** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2350 ON SECOND READING

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2350** at this time on its second reading:

HB 2350, Relating to eligibility of certain persons for an alcoholic beverage license or permit.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 2350 ON THIRD READING

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2350** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 18, 2007

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 1530 (144 Yeas, 0 Nays, 2 Present, not voting)

HB 1928 (143 Yeas, 1 Nays, 1 Present, not voting)

THE HOUSE HAS REFUSED TO CONCUR IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

HB 930 (non-record vote)

House Conferees: Chavez - Chair/Castro/Corte, Frank/Garcia/Taylor

HB 1060 (non-record vote)

House Conferees: Parker - Chair/Howard, Donna/Kolkhorst/McClendon/Zerwas

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 8 (122 Yeas, 17 Nays, 2 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

HOUSE BILL 2992 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2992** at this time on its second reading:

HB 2992, Relating to the registration of semitrailers.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 2992 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2992** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 3457 ON SECOND READING**

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **CSHB 3457** at this time on its second reading:

CSHB 3457, Relating to idling the diesel engine of a school bus while the bus is parked at a public school or school event.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Ogden.

Absent: Fraser.

Absent-excused: Gallegos.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Ogden.

Absent: Fraser.

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3457 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3457** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Ogden.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

SENATE BILL 792 WITH HOUSE AMENDMENTS

Senator Williams called **SB 792** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer, Senator Brimer in Chair, laid the bill and the House amendments before the Senate.

Floor Amendment No. 3

Amend **SB 792** in SECTION 3.01 of the bill, in added Section 223.210(r), Transportation Code (House committee printing, page 10, line 12), between "border" and the period, by inserting ", except that Subsection (b) does not apply to a project that is located in a county that has a population of 600,000 or more and is adjacent to an international border only if before May 1, 2007, the project has been adopted by the metropolitan planning organization for the county in the transportation improvement plan or metropolitan transportation plan."

Floor Amendment No. 5

Amend **SB 792** by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill appropriately:

ARTICLE ____ . METROPOLITAN PLANNING ORGANIZATIONS

SECTION ____.01. Subchapter D, Chapter 472, Transportation Code, is amended by adding Section 472.034 to read as follows:

Sec. 472.034. ETHICS POLICY. Each policy board shall adopt bylaws establishing an ethics policy to prevent a policy board member from having a conflict of interest in business before the metropolitan planning organization.

Floor Amendment No. 6

Amend **SB 792** (House committee printing) by adding the following appropriately numbered SECTION to ARTICLE 10 of the bill and renumbering subsequent SECTIONS accordingly:

SECTION ____ . Section 370.302, Transportation Code, is amended by adding Subsection (j) to read as follows:

(j) An authority created under Section 370.031(c) may not enter into an agreement:

(1) for the construction, operation, or maintenance of a transportation project that requires a total expenditure of more than \$200 million unless the project is approved by a majority of the voters who:

(A) reside within the boundaries of the authority; and

(B) vote in an election held for the purpose of approving the transportation project; or

(2) with another state of the United States or the United Mexican States unless the agreement is approved by a majority vote of the governing body of a municipality creating or participating in the authority.

Floor Amendment No. 7

Amend **SB 792** (House committee printing) in ARTICLE 10 of the bill by adding the following appropriately numbered SECTION and renumbering SECTIONS of the ARTICLE appropriately:

SECTION 10. ____ . Section 370.251, Transportation Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Except as provided by Subsection (a-1), the [The] governing body of an authority is a board of directors consisting of representatives of each county in which a transportation project of the authority is located or is proposed to be located. The commissioners court of each county that initially forms the authority shall appoint at least two directors to the board. Additional directors may be appointed to the board at the time of initial formation by agreement of the counties creating the authority to ensure fair representation of political subdivisions in the counties of the authority that will be affected by a transportation project of the authority, provided that the number of directors must be an odd number. The commissioners court of a county that is subsequently added to the authority shall appoint one director to the board. The

governor shall appoint one director to the board who shall serve as the presiding officer of the board and shall appoint an additional director to the board if an appointment is necessary to maintain an odd number of directors on the board.

(a-1) Subject to Subsections (g)(1), (3), (4), and (5) and Section 370.252, to be eligible to serve as director of an authority created by a municipality an individual:

(1) may be a representative of an entity that also has representation on a metropolitan planning organization in the region where the municipality is located; and

(2) is not required to be a resident of Texas if the metropolitan planning organization's geographic area includes territory in another state.

Floor Amendment No. 9

Amend **SB 792** as follows:

(1) In SECTION 3.01 of the bill, immediately after proposed Section 223.210(g), Transportation Code (House committee printing, page 7, between lines 10 and 11), insert:

(g-1) Subsection (b) does not apply to a comprehensive development agreement in connection with a project other than a Trans-Texas Corridor project if:

(1) the project is located in the territory of a regional mobility authority that:

(A) was created before January 1, 2005; and

(B) is composed of a single county having a population of less than 125,000; and

(2) the commissioners court of the county in which the project is located by official action approves the exemption from Subsection (b).

(2) In SECTION 7.01 of the bill, in proposed Subsection (s)(3), Section 228.0111, Transportation Code (House committee printing, page 28, line 11), between "County" and the semicolon insert ", regardless of which local toll project entity develops the extension into Grayson County".

Floor Amendment No. 10

Amend **SB 792** in SECTION 3.01 of the bill, by striking proposed Subsection (f), Section 223.210, Transportation Code (House committee printing, page 7, lines 4-7), and substituting:

(f) Subsection (b) does not apply to a comprehensive development agreement in connection with a project:

(1) on the ISTEPA High Priority Corridor identified in Sections 1105(c)(18) and (20) of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. No. 102-240), as amended by Section 1211 of the Transportation Equity Act for the 21st Century (Pub. L. No. 105-178, as amended by Title IX, Pub. L. No. 105-206), including land adjacent to the project needed to widen the project for a transportation use, if the project remains in a highway corridor designated by those laws; and

(2) located south of the San Antonio River.

Floor Amendment No. 11

Amend **SB 792**, House committee report, as follows:

(1) In SECTION 7.01 of the bill, strike Subdivisions (7) and (8), Subsection (a), Section 228.011 (page 15, lines 10-13), and substitute the following:

(7) Westpark Toll Road Phase II, between Grand Parkway (State Highway 99) and FM 1463;

(8) Fort Bend Parkway, between State Highway 6 and the Brazos River; and

(9) Montgomery County Parkway, between State Highway 242 and the Grand Parkway (State Highway 99), and if the Grand Parkway project has not begun construction, a non-tolled extension of the Montgomery County Parkway to allow a connection to Interstate Highway 45."

Floor Amendment No. 12

Amend **SB 792** (House committee printing) as follows:

(1) In SECTION 9.07 of the bill, between added Subsections (d) and (e), Section 366.185, Transportation Code (page 53, between lines 4 and 5), insert the following:

(d-1) This subsection takes effect only if Senate Bill No. 1886, Acts of the 80th Legislature, Regular Session, 2007, is enacted and becomes law. The rules adopted under Subsection (d) must be consistent with the design-build procedures provided by Subchapter J, Chapter 271, Local Government Code.

(2) In SECTION 9.07 of the bill, added Subsection (e), Section 366.185, Transportation Code (page 53, lines 5 through 11), strike the first sentence of the subsection and substitute the following:

An authority may contract for the construction of a turnpike project by a construction manager at-risk procedure under which the construction manager at-risk provides consultation services to the authority during the design of the turnpike project and is responsible for the construction of the turnpike project in accordance with the authority's plans and specifications.

(3) In ARTICLE 10 of the bill, add the following SECTION, appropriately numbered, and renumber subsequent SECTIONS accordingly:

SECTION 10.____. (a) Section 370.314, Transportation Code, is amended to read as follows:

Sec. 370.314. DESIGN-BUILD PROCEDURES [~~COMBINATION OF ENGINEERING, DESIGN, AND CONSTRUCTION SERVICES~~]. (a) An authority may procure a combination of engineering, design, and construction services in a single procurement for a transportation project provided that any contract awarded must be the one that results in the best value to the authority.

(b) Procedures adopted under Subsection (a) must be consistent with the design-build procedures provided by Subchapter J, Chapter 271, Local Government Code.

(b) Subsection (a) of this section takes effect only if Senate Bill No. 1886, Acts of the 80th Legislature, Regular Session, 2007, is enacted and becomes law.

Floor Amendment No. 13

Amend **SB 792** (House committee printing) as follows:

(1) In SECTION 3.01 of the bill, at the end of proposed Section 223.210, Transportation Code (page 10, between lines 12 and 13), insert:

(s) This section applies to a facility agreement under a comprehensive development agreement in the same manner that it applies to a comprehensive development agreement, regardless of whether the comprehensive development agreement was entered into on or after May 1, 2007, if the facility agreement was entered into on or after that date.

(2) In SECTION 4.01 of the bill, in amended Subsection (f), Section 223.201, Transportation Code (page 10, at the end of line 18), add "or facility agreements under a comprehensive development agreement".

(3) In SECTION 11.01 of the bill, at the end of proposed Section 371.103, Transportation Code (page 62, between lines 4 and 5), insert:

(f) This section applies to a facility agreement under a comprehensive development agreement in the same manner that it applies to a comprehensive development agreement, regardless of whether the commission selected an apparent best value proposer for the comprehensive development agreement before May 1, 2007, if the facility agreement was entered into on or after that date.

(4) In SECTION 11.01 of the bill, in proposed Subsection (a), Section 371.153, Transportation Code (page 64, line 2), strike "later" and substitute "earlier".

Floor Amendment No. 14

Amend Amendment No. __ to **SB 792** by Kolkhorst in item (1) of the amendment, at the end of proposed Subsection (s), Section 223.210, Transportation Code (page 1, line 10), by adding "This subsection does not apply to a facility agreement under a comprehensive development agreement to which Subsection (b) does not apply."

Floor Amendment No. 15

Amend **SB 792** in SECTION 3.01 of the bill, following proposed Subsection (k), Section 223.210, Transportation Code (House committee printing, at the end of page 8), by adding:

(k-1) If the department incurs a monetary penalty for the construction of a competing transportation project under a provision in a comprehensive development agreement approved by a county under Subsection (k), payment of the penalty may be made only with money that would otherwise be allocated for projects in the department district in which the county is located.

Floor Amendment No. 16

Amend **SB 792** in SECTION 7.01 of the bill, in proposed Section 228.0111, Transportation Code (House committee printing, page 21, between lines 10 and 11), by inserting:

(f-3) A third party that develops a market valuation under Subsection (f) may not be an entity that:

(1) invests money, either directly or indirectly through investment in the entity's equities or obligations, in a private entity that participates in the financing, development, construction, or operation of toll projects; or

(2) directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with a private entity that participates in the financing, development, construction, or operation of toll projects, as the term "control" is described by Section 21.605, Business Organizations Code.

Floor Amendment No. 17

Amend **SB 792** in SECTION 11.01 of the bill, in proposed Section 371.101(c), Transportation Code (House committee printing, page 59, line 22), by striking "new".

Floor Amendment No. 18

Amend the Kolkhorst amendment on page 1, by adding the following item to the amendment:

Amend **SB 792**, in Section 11.01 of the bill, at the end of proposed Section 371.101(c), Transportation Code (on page 59, line 23), between "project" and the period, insert the following:

, if not included in an agreed base case financial model under Subsection (b)

Floor Amendment No. 19

Amend **SB 792** in SECTION 3.01 of the bill, proposed Section 223.210(f), Transportation Code (House committee printing, on page 7, lines 6 and 7), by striking "the San Antonio River" and substituting "Refugio County".

Floor Amendment No. 22

Amend **SB 792** (House committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES accordingly.

ARTICLE __. INTERNATIONAL TOLL BRIDGES

SECTION __.01. Subchapter A, Chapter 364, Transportation Code, is amended by adding Section 364.0001 to read as follows:

Sec. 364.0001. DEFINITION. In this chapter, "bridge" includes a bridge used by vehicles, pedestrians, or railroads, or a combination of vehicles, pedestrians, or railroads.

SECTION __.02. Subchapter A, Chapter 364, Transportation Code, is amended by adding Section 364.004 to read as follows:

Sec. 364.004. AGREEMENTS RELATING TO TOLL BRIDGE. (a) A county may enter into and make payments under an agreement with a private entity or another governmental entity to acquire, construct, maintain, or operate a toll bridge, including an international toll bridge, and a private or governmental entity in this state may enter into an agreement with a county for that purpose.

(b) In connection with or in support of an agreement entered into under Subsection (a), the county may enter into a lease, an operating agreement, a service agreement, a license agreement, a franchise agreement, or a similar agreement with a private entity or another governmental entity.

SECTION __.03. If another Act of the 80th Legislature, Regular Session, 2007, enacts Section 364.0001 or 364.004, Transportation Code, it is the intent of the legislature that Sections 364.0001 and 364.004, Transportation Code, as added by this

ARTICLE prevail, regardless of the relative dates of enactment and regardless of whether any differences are reconcilable, notwithstanding Section 311.025(b), Government Code.

Floor Amendment No. 23

Amend **SB 792** in SECTION 9.09 of the bill by striking added Section 366.2575, Transportation Code (House committee printing, page 55, lines 14 through 17), and substituting:

Sec. 366.2575. BOARD VOTE ON COUNTY REQUEST. On request of the commissioners court of a county of an authority, the board shall vote on whether to build a project that the county requests.

Committee Amendment No. 25

Amend **SB 792** by adding the following Section, appropriately numbered:

SECTION _____. Subchapter B, Chapter 228, TRANSPORTATION CODE, is amended by adding Section 228.065 to read as follows:

SECTION 228.065. An entity operating a toll lane pursuant to Section 228.007(b) of this Chapter has, with regard to toll collection and enforcement for that toll lane, the same powers and duties as the department under this Chapter. Each failure to pay a toll or administrative fee imposed under this section is a separate offense. An offense under this section is a misdemeanor punishable by a fine not to exceed \$250, and the provisions of Section 228.056 apply to the prosecution of an offense. The entity may use revenues for improvement, extension, expansion or maintenance of the toll lane.

Floor Amendment No. 27

Amend **SB 792** by adding the following SECTION to the bill, appropriately numbered, and renumbering existing SECTIONS accordingly:

SECTION _____. Chapter 379C, Local Government Code, is amended by adding Section 379C.0085 to read as follows:

Sec. 379C.0085. RESALE OF CERTAIN REAL PROPERTY; OFFER TO LAND BANK. (a) In this section, "department" means the Texas Department of Transportation.

(b) This section applies only to real property in a municipality to which this chapter applies that was acquired by the department for right-of-way purposes through the use of eminent domain, including any land acquired for toll projects or under the terms of a comprehensive development agreement under the Transportation Code.

(c) If all or any part of the real property ceases to be needed for right-of-way purposes, in connection with the unneeded property, the department shall comply with Sections 21.102 and 21.103, Property Code.

(d) If the property owner, or the owner's heirs, successors, or assigns, elects not to repurchase the real property from the department, the department may offer the land bank the option to acquire all or any part of the unneeded property, without cost or expense to the land bank.

Floor Amendment No. 28

Amend **SB 792** in SECTION 3.01 of the bill, in proposed Subsection (i), Section 223.210, Transportation Code (page 8, line 5), between "281" and "that" by inserting "or Loop 1604".

The amendments were read.

Senator Williams moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 792** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Williams, Chair; Carona, Shapleigh, Brimer, and Nichols.

**COMMITTEE SUBSTITUTE
HOUSE BILL 724 ON SECOND READING**

The Presiding Officer laid before the Senate **CSHB 724** by Senator Jackson on its second reading. The bill had been read second time and further consideration postponed to a time certain of 12:15 p.m. today:

CSHB 724, Relating to workers' compensation claims for certain medical benefits, death benefits, and burial benefits.

Question — Shall **CSHB 724** be passed to third reading?

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 724** as follows:

(1) On page 2, line 24, in SECTION 4, in the new Subsection (d-1) added to Section 408.182, Labor Code, after "household" and the period, insert "and may not exceed 104 weeks".

(2) On page 2, line 29, in SECTION 4, in the new Subsection (d-2), between "compensable injury." and "The commissioner may", insert "The claim must designate all eligible parents and necessary information for payment to the eligible parents. The insurance carrier is not liable for payment to any eligible parent not designated on the claim."

(3) On page __, line __, add the following SECTION, appropriately numbered and renumbering the sections of the bill accordingly:

SECTION __. Amend Section 408.182(e) as follows:

(e) If an employee is not survived by legal beneficiaries or eligible parents, the death benefits shall be paid to the subsequent injury fund under Section 403.077.

The amendment to **CSHB 724** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Gallegos.

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 724**, Senate committee printing, by inserting the following appropriately numbered SECTIONS in the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Section 408.027(d), Labor Code, is amended to read as follows:

(d) If an insurance carrier contests the compensability of an injury and the injury is determined not to be compensable, the carrier may recover the amounts paid for health care services from the employee's accident or health benefit plan, or any other person who may be obligated for the cost of the health care services. If an accident or health insurance carrier or other person obligated for the cost of health care services has paid for health care services for an employee for an injury for which a workers' compensation insurance carrier denies compensability, and the injury is later determined to be compensable, the accident or health insurance carrier or other person may recover the amounts paid for such services from the workers' compensation insurance carrier. If an accident or health insurance carrier or other person obligated for the cost of health care services has paid for health care services for an employee for an injury for which the workers' compensation insurance carrier or the employer has not disputed compensability, the accident or health insurance carrier or other person may recover reimbursement from the insurance carrier in the manner described by Section 409.009 or 409.0091, as applicable.

SECTION __. Subchapter A, Chapter 409, Labor Code, is amended by adding Section 409.0091 to read as follows:

Sec. 409.0091. REIMBURSEMENT PROCEDURES FOR CERTAIN ENTITIES. (a) In this section, "health care insurer" means an insurance carrier and an authorized representative of an insurance carrier, as described by Section 402.084(c-1).

(b) This section applies only to a request for reimbursement by a health care insurer.

(c) Health care paid by a health care insurer may be reimbursable as a medical benefit.

(d) Except as provided by Subsection (e), this section does not prohibit or limit a substantive defense by a workers' compensation insurance carrier that the health care paid for by the health care insurer was not a medical benefit or not a correct payment. A subclaimant may not be reimbursed for payment for any health care that was previously denied by a workers' compensation insurance carrier under:

(1) a preauthorization review of the specific service or medical procedure;

or

(2) a medical necessity review that determined the service was not medically necessary for the treatment of a compensable injury.

(e) It is not a defense to a subclaim by a health care insurer that:

(1) the subclaimant has not sought reimbursement from a health care provider or the subclaimant's insured;

(2) the subclaimant or the health care provider did not request preauthorization under Section 413.014 or rules adopted under that section; or

(3) the health care provider did not bill the workers' compensation insurance carrier, as provided by Section 408.027, before the 95th day after the date the health care for which the subclaimant paid was provided.

(f) Subject to the time limits under Subsection (n), the health care insurer shall provide, with any reimbursement request, the tax identification number of the health care insurer and the following to the workers' compensation insurance carrier, in a form prescribed by the division:

(1) information identifying the workers' compensation case, including:

(A) the division claim number;

(B) the name of the patient or claimant;

(C) the social security number of the patient or claimant; and

(D) the date of the injury; and

(2) information describing the health care paid by the health care insurer, including:

(A) the name of the health care provider;

(B) the tax identification number of the health care provider;

(C) the date of service;

(D) the place of service;

(E) the ICD-9 code;

(F) the CPT, HCPCS, NDC, or revenue code;

(G) the amount charged by the health care provider; and

(H) the amount paid by the health care insurer.

(g) The workers' compensation insurance carrier shall reduce the amount of the reimbursable subclaim by any payments the workers' compensation insurance carrier previously made to the same health care provider for the provision of the same health care on the same dates of service. In making such a reduction in reimbursement to the subclaimant, the workers' compensation insurance carrier shall provide evidence of the previous payments made to the provider.

(h) For each medical benefit paid, the workers' compensation insurance carrier shall pay to the health care insurer the lesser of the amount payable under the applicable fee guideline as of the date of service or the actual amount paid by the health care insurer. In the absence of a fee guideline for a specific service paid, the amount per service paid by the health care insurer shall be considered in determining a fair and reasonable payment under rules under this subtitle defining fair and reasonable medical reimbursement. The health care insurer may not recover interest as a part of the subclaim.

(i) On receipt of a request for reimbursement under this section, the workers' compensation insurance carrier shall respond to the request in writing not later than the 90th day after the date on which the request is received. If additional information is requested under Subsection (j), the workers' compensation insurance carrier shall respond not later than the 120th day unless the time is extended under Subsection (j).

(j) If the workers' compensation insurance carrier requires additional information from the health care insurer, the workers' compensation insurance carrier shall send notice to the health care insurer requesting the additional information. The health care insurer shall have 30 days to provide the requested information. The workers' compensation insurance carrier and the health care insurer may establish additional periods for compliance with this subsection by written mutual agreement.

(k) Unless the parties have agreed to an extension of time under Subsection (j), the health care insurer must file a written subclaim under this section not later than the 120th day after:

(1) the workers' compensation insurance carrier fails to respond to a request for reimbursement; or

(2) receipt of the workers' compensation insurance carrier's notice of denial to pay or reduction in reimbursement.

(l) Any dispute that arises from a failure to respond to or a reduction or denial of a request for reimbursement of services that form the basis of the subclaim must go through the appropriate dispute resolution process under this subtitle and division rules. The commissioner of insurance and the commissioner of workers' compensation shall modify rules under this subtitle as necessary to allow the health care insurer access as a subclaimant to the appropriate dispute resolution process. Rules adopted or amended by the commissioner of insurance and the commissioner of workers' compensation must recognize the status of a subclaimant as a party to the dispute. Rules modified or adopted under this section should ensure that the workers' compensation insurance carrier is not penalized, including not being held responsible for costs of obtaining the additional information, if the workers' compensation insurance carrier denies payment in order to move to dispute resolution to obtain additional information to process the request.

(m) In a dispute filed under Chapter 410 that arises from a subclaim under this section, a hearing officer may issue an order regarding compensability or eligibility for benefits and order the workers' compensation insurance carrier to reimburse health care services paid by the health care insurer as appropriate under this subtitle. Any dispute over the amount of medical benefits owed under this section, including medical necessity issues, shall be determined by medical dispute resolution under Sections 413.031 and 413.032.

(n) Except as provided by Subsection (s), a health care insurer must file a request for reimbursement with the workers' compensation insurance carrier not later than six months after the date on which the health care insurer received information under Section 402.084(c-3) and not later than 18 months after the health care insurer paid for the health care service.

(o) The commissioner and the commissioner of insurance shall amend or adopt rules to specify the process by which an employee who has paid for health care services described by Section 408.027(d) may seek reimbursement.

(p) Until September 1, 2011, a workers' compensation insurance carrier is exempt from any department and division data reporting requirements affected by a lack of information caused by reimbursement requests or subclaims under this section. If data reporting is required after that date, the requirement is prospective only and may not require any data to be reported between September 1, 2007, and the date

required reporting is reinstated. The department and the division may make legislative recommendations to the 82nd Legislature for the collection of reimbursement request and subclaim data.

(q) An action or failure to act by a workers' compensation insurance carrier under this section may not serve as the basis for an examination or administrative action by the department or the division, or for any cause of action by any person, except for judicial review under this subtitle.

(r) The commissioner of insurance and the commissioner of workers' compensation may adopt additional rules to clarify the processes required by, fulfill the purpose of, or assist the parties in the proper adjudication of subclaims under this section.

(s) On or after September 1, 2007, from information provided to a health care insurer before January 1, 2007, under Section 402.084(c-3), the health care insurer may file not later than March 1, 2008:

(1) a subclaim with the division under Subsection (l) if a request for reimbursement has been presented and denied by a workers' compensation insurance carrier; or

(2) a request for reimbursement under Subsection (f) if a request for reimbursement has not previously been presented and denied by the workers' compensation insurance carrier.

SECTION __. The change in law made by this Act applies only to a subclaim based on a compensable injury that occurred on or after September 1, 2007, and to reimbursement requests and subclaims pursuant to Section 409.0091(s), Labor Code, as added by this Act. The changes made by this Act apply only to subclaims based on an injury that has not been denied for compensability or that has been determined by the division to be compensable.

SECTION __. The commissioner of workers' compensation shall prescribe any forms required under Section 409.0091, Labor Code, as added by this Act, not later than September 1, 2007.

SECTION __. The commissioner of workers' compensation and the commissioner of insurance shall adopt rules as required by this Act not later than December 1, 2007.

The amendment to **CSHB 724** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Gallegos.

On motion of Senator Jackson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 724 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
HOUSE BILL 724 ON THIRD READING**

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 724** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1092 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1092** at this time on its second reading:

HB 1092, Relating to the prosecution of the offense of criminal trespass.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1092** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Chapter 30, Penal Code, is amended by adding Section 30.07 to read as follows:

Sec. 30.07. TRESPASS ON DOCKING PLACE. (a) In this section:

(1) "Docking place" includes a pier, wharf, dock, slip, slipway, or any other man-made landing area for ships, boats, or other watercraft.

(2) "Enter" means to intrude:

(A) any part of the body; or

(B) any physical object connected with the body.

(3) "Notice" means:

(A) oral or written communication by the owner or someone with apparent authority to act for the owner;

(B) fencing or other enclosure obviously designed to exclude intruders from the docking place; or

(C) a sign or signs posted on a docking place or at the entrance to a docking place, reasonably likely to come to the attention of intruders, indicating that entry is forbidden.

(b) A person commits an offense if the person:

(1) enters the docking place of another without the effective consent of the owner or lessee of the docking place; and

(2) after receiving notice that entry is forbidden, remains in, on, or attached to the docking place.

(c) A person commits an offense if the person, after receiving notice that entering a docking place is forbidden, anchors, ties up, moors, or otherwise makes stationary the actor's ship, boat, or other watercraft at a place or in a manner that eliminates another's ingress or egress from the docking place.

(d) An offense under this section is a Class B misdemeanor.

(e) The defense provided by Section 30.05(c) applies to an offense under this section.

The amendment to **HB 1092** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Gallegos.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1092 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 1092 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1092** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

SENATE BILL 502 WITH HOUSE AMENDMENTS

Senator Averitt called **SB 502** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 2

Amend **SB 502**, House committee printing, as follows:

(1) In SECTION 1 of the bill, strike added Subsection (c) in amended Section 601.072, Transportation Code, (page 2, lines 17-18) and substitute the following:

(c) The Texas Department of Insurance shall establish an outreach program to inform persons of the requirements of this chapter and the ability to comply with the financial responsibility requirements of this chapter through motor vehicle liability insurance coverage. The commissioner of insurance, by rule, shall establish the requirements for the program. The program must be designed to encourage compliance with the financial responsibility requirements, and must be made available in English and Spanish.

(d) Subsection (a) and this section expire December 31, 2010.

Floor Amendment No. 3

Amend **SB 502** as follows:

- (1). On page 1, line 9 delete "January" and substitute "April".
- (2). On page 1, lines 21 and 22, delete "January" and substitute "April".

The amendments were read.

Senator Averitt moved to concur in the House amendments to **SB 502**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

(Senator Watson in Chair)

**COMMITTEE SUBSTITUTE
HOUSE BILL 3105 ON SECOND READING**

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3105** at this time on its second reading:

CSHB 3105, Relating to a program allowing for countywide voting locations in certain elections.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3105 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3105** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
May 18, 2007

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 262, In memory of John Austin Pena of Edinburg.

SCR 30, Recognizing May 5, 2007, as Parliamentary Law Day at the State Capitol.

THE HOUSE HAS REFUSED TO CONCUR IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

HB 1251 (non-record vote)

House Conferees: Bonnen - Chair/Driver/Eiland/King, Tracy/Kuempel

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

HOUSE BILL 2510 ON SECOND READING

Senator Hinojosa moved to suspend the regular order of business to take up for consideration **HB 2510** at this time on its second reading:

HB 2510, Relating to the creation, administration, powers, duties, operations, and financing of a commuter rail district; granting the authority to issue bonds; granting the power of eminent domain.

The motion prevailed.

Senator West asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2510** (Senate committee printing) in added Subsection (d), Section 4, Article 6550c-3, Chapter 13, Title 112, Revised Statutes (page 2, line 23), between "may" and "relocate", by inserting "require the owner to".

The amendment to **HB 2510** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Nays: West.

Absent-excused: Gallegos.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 2510** (Senate committee printing) as follows:

(1) Add the following appropriately numbered SECTIONS and renumber subsequent SECTIONS accordingly:

SECTION _____. (a) The purpose of Chapter 329, Tax Code, as added by this section, is to promote and provide for funding for commuter rail transit between municipalities located in the counties to which that chapter applies.

(b) Subtitle C, Title 3, Tax Code, is amended by adding Chapter 329 to read as follows:

CHAPTER 329. SALES AND USE TAXES BY CERTAIN MUNICIPALITIES

Sec. 329.001. DEFINITION. In this chapter, "transit sales and use tax" means a sales and use tax imposed for the support of transportation services authorized under the Transportation Code.

Sec. 329.002. APPLICABILITY. This chapter applies only to a municipality located wholly or partly in:

- (1) a district created under Article 6550c-3, Revised Statutes;
- (2) one or both of two contiguous counties, each of which has a population of one million or more; or
- (3) a county contiguous to one of the counties described in Subdivision (2).

Sec. 329.003. TRANSIT SALES AND USE TAX NOT COUNTED IN COMBINED LOCAL TAX RATE. Notwithstanding any other law, the rate of a transit sales and use tax imposed within the territory of a municipality to which this chapter applies may not be considered in determining the combined or overlapping rate of local sales and use taxes in the municipality for any purpose other than as provided in Section 329.004.

Sec. 329.004. LIMITATION FOR TRANSIT SALES AND USE TAXES. Notwithstanding any other law, the rate of all transit sales and use taxes imposed within the territory of a municipality to which this chapter applies may not exceed one percent at any location in the municipality.

SECTION _____. Sections 321.101(b) and (e), Tax Code, are amended to read as follows:

(b) A municipality that is not disqualified may, by a majority vote of the qualified voters of the municipality voting at an election held for that purpose, adopt an additional sales and use tax for the benefit of the municipality in accordance with this chapter. A municipality, other than a municipality to which Chapter 329 applies, is disqualified from adopting the additional sales and use tax if the municipality:

- (1) is included within the boundaries of a rapid transit authority created under Chapter 451, Transportation Code;
- (2) is included within the boundaries of a regional transportation authority created under Chapter 452, Transportation Code, by a principal municipality having a population of less than 800,000, unless the municipality has a population of 400,000 or more and is located in more than one county;

(3) is wholly or partly located in a county that contains territory within the boundaries of a regional transportation authority created under Chapter 452, Transportation Code, by a principal municipality having a population in excess of 800,000, unless:

(A) the municipality is a contiguous municipality; or

(B) the municipality is not included within the boundaries of the authority and is located wholly or partly in a county in which fewer than 250 persons are residents of both the county and the authority according to the most recent federal census; or

(C) the municipality is not and on January 1, 1993, was not included within the boundaries of the authority; or

(4) imposes a tax authorized by Chapter 453, Transportation Code.

(e) An authority created under Chapter 451 or 452, Transportation Code, is prohibited from imposing the tax provided for by those chapters if within the boundaries of the authority there is a municipality, other than a municipality to which Chapter 329 applies, that has adopted the additional sales and use tax provided for by this section.

(2) In SECTION 1 of the bill, in new Section 8, Article 6550c-3, Revised Statutes, strike Subsection (f) (page 5, lines 4-8), and reletter subsequent subsections accordingly.

The amendment to **HB 2510** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Nays: Fraser, West.

Absent-excused: Gallegos.

On motion of Senator Hinojosa and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2510 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: West.

Absent-excused: Gallegos.

HOUSE BILL 2510 ON THIRD READING

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2510** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: West.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 2549 ON SECOND READING**

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2549** at this time on its second reading:

CSHB 2549, Relating to eligibility of certain dependents for group life insurance.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2549 ON THIRD READING**

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2549** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 3259 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3259** at this time on its second reading:

HB 3259, Relating to the administration of international assessment instruments to certain public school students.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 3259 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3259** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2248 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2248** at this time on its second reading:

HB 2248, Relating to the ability of a governmental body under the public information law to request a redetermination from the attorney general on dismissal of litigation relating to the same issue.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 2248 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2248** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE

HOUSE BILL 1374 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1374** at this time on its second reading:

CSHB 1374, Relating to service areas of the Amarillo College District, the Borger Junior College District, the Midland Community College District, and the Odessa College District.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1374 ON THIRD READING**

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1374** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 890 ON SECOND READING

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 890** at this time on its second reading:

HB 890, Relating to the creation of an irrevocable trust for the proceeds of the sale or disposition of county school lands.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 890 ON THIRD READING

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 890** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1420 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1420** at this time on its second reading:

HB 1420, Relating to the removal of property from county roads by certain counties.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 1420 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1420** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 429 ON SECOND READING

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 429** at this time on its second reading:

HB 429, Relating to a study of the expenses of health care for certain elderly inmates.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

HOUSE BILL 429 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 429** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 1921 ON SECOND READING**

On motion of Senator Eltife and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1921** at this time on its second reading:

CSHB 1921, Relating to the use of certain devices in a polling place.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1921 ON THIRD READING**

Senator Eltife moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1921** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 2096 ON SECOND READING**

On motion of Senator Uresti and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2096** at this time on its second reading:

CSHB 2096, Relating to utility connections on certain tracts of property in certain counties near an international border.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2096 ON THIRD READING**

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2096** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

LEAVE OF ABSENCE

On motion of Senator Whitmire, Senator Carona was granted leave of absence for the remainder of the day on account of important business.

HOUSE BILL 1700 ON SECOND READING

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1700** at this time on its second reading:

HB 1700, Relating to a project for the development and implementation of a nature science curriculum for public school students.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Carona, Gallegos.

HOUSE BILL 1700 ON THIRD READING

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1700** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

HOUSE BILL 2195 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2195** at this time on its second reading:

HB 2195, Relating to the time of day by which a report must be filed electronically with the Texas Ethics Commission.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Carona, Gallegos.

HOUSE BILL 2195 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2195** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

HOUSE BILL 2444 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2444** at this time on its second reading:

HB 2444, Relating to the powers of the Southmost Regional Water Authority.

The bill was read second time and was passed to third reading by a viva voce vote:

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Carona, Gallegos.

HOUSE BILL 2444 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2444** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

HOUSE BILL 2095 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2095** at this time on its second reading:

HB 2095, Relating to allowing certain counties with no incorporated territory to participate in programs designed to assist municipalities.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Carona, Gallegos.

HOUSE BILL 2095 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2095** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

HOUSE BILL 2984 ON SECOND READING

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2984** at this time on its second reading:

HB 2984, Relating to the qualification of supervisors of a fresh water supply district.

The bill was read second time.

Senator Nelson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2984** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in amended Section 53.063, Water Code, after "SUPERVISOR'S QUALIFICATIONS." (line 13), strike "To" and substitute "(a) Except as provided by Subsection (b), to [F]".

(2) In SECTION 1 of the bill, at the end of amended Section 53.063, Water Code (between lines 18 and 19), insert the following:

(b) To be qualified for election as a supervisor of a district located wholly or partly in Denton County, a person must be a registered voter of the district.

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ESTES

The amendment to **HB 2984** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Carona, Gallegos.

On motion of Senator Hegar and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2984 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Carona, Gallegos.

HOUSE BILL 2984 ON THIRD READING

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2984** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

HOUSE BILL 1798 ON SECOND READING

On motion of Senator Uresti and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1798** at this time on its second reading:

HB 1798, Relating to the criminal consequences of driving a motor vehicle on certain designated right-of-way of a metropolitan rapid transit authority.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Carona, Gallegos.

HOUSE BILL 1798 ON THIRD READING

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1798** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 1303 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1303** at this time on its second reading:

CSHB 1303, Relating to certain requirements applicable to orders of expunction or nondisclosure of criminal history records and to the protection of information that is the subject of one of those orders; providing penalties.

The bill was read second time.

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1303** (Senate committee report) in SECTION 7 of the bill by striking added Subsection (b), Section 411.0851, Government Code (page 5, lines 33-41), and substituting the following:

(b) Unless the entity is regulated by the federal Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.) or the Gramm-Leach-Bliley Act (15 U.S.C. Sections 6801 to 6809), a private entity described by Subsection (a) that purchases criminal history record information from the department or from another governmental agency or entity in this state:

(1) may disseminate that information only if, within the 90-day period preceding the date of dissemination, the entity:

(A) originally obtains that information; or

(B) receives that information as updated record information to its database; and

(2) shall notify the department if the entity sells any compilation of the information to another similar entity.

The amendment to **CSHB 1303** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Carona, Gallegos.

On motion of Senator West and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1303 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Carona, Gallegos.

COMMITTEE SUBSTITUTE HOUSE BILL 1303 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1303** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

HOUSE BILL 1446 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1446** at this time on its second reading:

HB 1446, Relating to the period for preserving precinct election records.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Carona, Gallegos.

HOUSE BILL 1446 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1446** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

HOUSE BILL 3634 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3634** at this time on its second reading:

HB 3634, Relating to the name and powers of the Jefferson County Waterway and Navigation District.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Carona, Gallegos.

HOUSE BILL 3634 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3634** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

(President in Chair)

(Senator Brimer in Chair)

COMMITTEE SUBSTITUTE

HOUSE BILL 3928 ON SECOND READING

Senator Ogden moved to suspend the regular order of business to take up for consideration **CSHB 3928** at this time on its second reading:

CSHB 3928, Relating to technical changes to the revised franchise tax.

The motion prevailed.

Senator Zaffirini asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3928** (Senate committee printing) as follows:

(1) Strike SECTION 1 of the bill (page 1, lines 12-14).

(2) Strike SECTION 6 of the bill (page 4, lines 36-54) and substitute the following:

SECTION 6. Section 171.001, Tax Code, as effective January 1, 2008, is amended by adding Subsection (c) to read as follows:

(c) The tax imposed under this section or Section 171.0011 is not imposed on an entity if, during the period on which the report is based, the entity qualifies as a passive entity as defined by Section 171.0003.

(3) In SECTION 8 of the bill, strike Sections 171.002(a) and (b), Tax Code (page 4, line 69, through page 5, line 5), and substitute the following:

(a) Subject to Sections ~~[Section]~~ 171.003 and 171.1016 and except as provided by Subsection (b), the rate of the franchise tax is one percent ~~[per year of privilege period]~~ of taxable margin.

(b) Subject to Sections 171.003 and 171.1016, the ~~[The]~~ rate of the franchise tax is 0.5 percent ~~[per year of privilege period]~~ of taxable margin for those taxable entities primarily engaged in retail or wholesale trade.

(4) Insert an appropriately numbered SECTION to read as follows:

SECTION __. Subchapter A, Chapter 171, Tax Code, is amended by adding Section 171.1016 to read as follows:

Sec. 171.1016. E-Z COMPUTATION AND RATE. (a) Notwithstanding any other provision of this chapter, a taxable entity whose total revenue from its entire business is not more than \$10 million may elect to pay the tax imposed under this chapter in the amount computed and at the rate provided by this section rather than in the amount computed and at the tax rate provided by Section 171.002.

(b) The amount of the tax for which a taxable entity that elects to pay the tax as provided by this section is liable is computed by:

(1) determining the taxable entity's total revenue from its entire business, as determined under Section 171.1011;

(2) apportioning the amount computed under Subdivision (1) to this state, as provided by Section 171.106, to determine the taxable entity's apportioned total revenue; and

(3) multiplying the amount computed under Subdivision (2) by the rate of 0.575 percent.

(c) A taxable entity that elects to pay the tax as provided by this section may not take a credit, deduction, or other adjustment that is not specifically authorized by this section.

(d) Section 171.0021 applies to a taxable entity that elects to pay the tax as provided by this section.

(e) A reference in this chapter or other law to the rate of the franchise tax means, as appropriate, the rate under Section 171.002 or, for a taxable entity that elects to pay the tax as provided by this section, the rate under this section.

(5) Strike SECTION 20 of the bill (page 12, lines 25-36) and substitute the following:

SECTION 20. Section 171.103, Tax Code, as effective January 1, 2008, is amended by adding Subsections (c) and (d) to read as follows:

(c) A taxable entity that is a combined group shall include in a report filed under Section 171.201 or 171.202, for each member of the combined group that does not have nexus with this state for the purpose of taxation:

(1) the gross receipts computed under Subsection (a); and

(2) the gross receipts computed under Subsection (a) that are subject to taxation in another state under a throwback law or regulation.

(d) The information required by Subsection (c) may be used for informational purposes only. A taxable entity with gross receipts from its entire business in the preceding taxable year of \$10 million or more forfeits the right to transact business in this state if the taxable entity fails to report or materially underreports the information required by Subsection (c).

(6) Strike SECTION 38 of the bill (page 19, line 43, through page 20, line 9).

(7) Insert an appropriately numbered SECTION to read as follows:

SECTION __. The taxation method provided by Section 171.002, Tax Code, as amended by this Act, and the taxation method provided by Section 171.1016, Tax Code, as added by this Act, are not severable, and neither provision would have been enacted without the other. If the taxation method provided by Section 171.002, Tax Code, as amended by this Act, is held invalid, the taxation method provided by Section 171.1016, Tax Code, as added by this Act, is also invalid.

(8) Renumber the SECTIONS of the bill appropriately.

The amendment to **CSHB 3928** was read and was adopted by the following vote: Yeas 23, Nays 6.

Yeas: Averitt, Brimer, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Hegar, Hinojosa, Janek, Lucio, Ogden, Patrick, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Harris, Jackson, Nelson, Nichols, Seliger, Shapiro.

Absent-excused: Carona, Gallegos.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 3928** (Senate committee printing) in SECTION 30 of the bill by striking added Section 171.214, Tax Code (page 15, lines 37-64), and substituting the following:

SECTION __. Subchapter E, Chapter 171, Tax Code, is amended by adding Section 171.214 to read as follows:

Sec. 171.214. BUSINESS TAX ADVISORY COMMITTEE. (a) The Business Tax Advisory Committee is created. The committee is composed of:

(1) two members of the house of representatives, appointed by the speaker of the house of representatives;

(2) two members of the senate, appointed by the lieutenant governor; and

(3) the following persons appointed by the comptroller:

(A) at least five residents of this state who are engaged in a private business, as either an employee or an owner, that is subject to taxation under this chapter; and

(B) at least two residents of this state with expertise in state business taxation.

(b) The comptroller shall determine the number of residents appointed under Subsection (a)(3).

(c) The comptroller is the presiding officer of the advisory committee.

(d) The advisory committee shall conduct a biennial study of the effects of the tax imposed under this chapter on businesses in this state. The study must take into consideration:

(1) the relative share of the tax paid by industry and by size of business;

(2) how the incidence of the tax compares with the economic makeup of this state's business economy;

(3) how the tax compares in structure and in amounts paid to the business taxes imposed by other states;

(4) the effect of the tax on the economic climate of this state, including the effect on capital investment and job creation;

(5) any factors that result in the tax not operating as intended; and

(6) any other item presented by the comptroller or by a majority of the committee.

(e) The comptroller by rule shall establish procedures for the functions of the advisory committee, including procedures requiring the advisory committee to issue a report on its findings to the speaker of the house of representatives, the lieutenant governor, and the governor not later than the date each regular session of the legislature begins.

(f) This section expires January 31, 2013.

The amendment to **CSHB 3928** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Carona, Gallegos.

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 3928** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 171.002(d), Tax Code, as effective January 1, 2008, is amended to read as follows:

(d) A taxable entity is not required to pay any tax and is not considered to owe any tax for a period if:

(1) the amount of tax computed for the taxable entity is less than \$1,000; ~~[or]~~

(2) the amount of the taxable entity's total revenue from its entire business is less than or equal to \$300,000 or the amount determined under Section 171.006; or

(3) the taxable entity's federal taxable income for that period as reported on the taxable entity's federal income tax return and as determined by rules adopted by the comptroller does not exceed zero.

(b) This section applies to a report originally due on or after the effective date of this section.

(c) This section takes effect January 1, 2008.

The amendment to **CSHB 3928** was read.

On motion of Senator Ogden, Floor Amendment No. 3 was tabled by the following vote: Yeas 23, Nays 6.

Yeas: Averitt, Brimer, Deuell, Duncan, Ellis, Eltife, Estes, Harris, Hegar, Hinojosa, Janek, Lucio, Nichols, Ogden, Seliger, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Fraser, Jackson, Nelson, Patrick, Shapiro, Wentworth.

Absent-excused: Carona, Gallegos.

On motion of Senator Ogden and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 3928 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Carona, Gallegos.

HOUSE BILL 3994 REREFERRED

Senator Estes submitted a Motion In Writing requesting that **HB 3994** be withdrawn from the Committee on Intergovernmental Relations and rereferred to the Committee on International Relations and Trade.

The Motion In Writing prevailed without objection.

HOUSE BILL 4069 REREFERRED

Senator Estes submitted a Motion In Writing requesting that **HB 4069** be withdrawn from the Committee on Intergovernmental Relations and rereferred to the Committee on International Relations and Trade.

The Motion In Writing prevailed without objection.

HOUSE BILL 4115 REREFERRED

Senator Estes submitted a Motion In Writing requesting that **HB 4115** be withdrawn from the Committee on Intergovernmental Relations and rereferred to the Committee on International Relations and Trade.

The Motion In Writing prevailed without objection.

HOUSE BILL 4116 REREFERRED

Senator Estes submitted a Motion In Writing requesting that **HB 4116** be withdrawn from the Committee on Intergovernmental Relations and rereferred to the Committee on International Relations and Trade.

The Motion In Writing prevailed without objection.

HOUSE BILL 4118 REREFERRED

Senator Estes submitted a Motion In Writing requesting that **HB 4118** be withdrawn from the Committee on Intergovernmental Relations and rereferred to the Committee on International Relations and Trade.

The Motion In Writing prevailed without objection.

HOUSE BILL 4119 REREFERRED

Senator Estes submitted a Motion In Writing requesting that **HB 4119** be withdrawn from the Committee on Intergovernmental Relations and rereferred to the Committee on International Relations and Trade.

The Motion In Writing prevailed without objection.

HOUSE BILL 4121 REREFERRED

Senator Estes submitted a Motion In Writing requesting that **HB 4121** be withdrawn from the Committee on Intergovernmental Relations and rereferred to the Committee on International Relations and Trade.

The Motion In Writing prevailed without objection.

HOUSE BILL 4139 REREFERRED

Senator Deuell submitted a Motion In Writing requesting that **HB 4139** be withdrawn from the Committee on Natural Resources and rereferred to the Committee on Jurisprudence.

The Motion In Writing prevailed without objection.

HOUSE BILL 4081 REREFERRED

Senator Jackson submitted a Motion In Writing requesting that **HB 4081** be withdrawn from the Committee on Intergovernmental Relations and rereferred to the Committee on Natural Resources.

The Motion In Writing prevailed without objection.

SENATE RULES SUSPENDED**(Posting Rules)**

On motion of Senator Averitt and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Natural Resources might meet and consider the following bills today:

HB 2678, HB 3984, HB 3990, HB 3995, HB 4013, HB 4014, HB 4033, HB 4034, HB 4044, HB 4081, HB 4085, HB 4096, HB 4134, HB 4122.

SENATE RULES SUSPENDED**(Posting Rules)**

On motion of Senator Lucio and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on International Relations and Trade might meet and consider the following bills today:

HB 3994, HB 4069, HB 4115, HB 4116, HB 4118, HB 4119, HB 4121.

SENATE RULES SUSPENDED**(Posting Rules)**

On motion of Senator Wentworth and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Jurisprudence might meet and consider the following bills today:

HB 670, HB 773, HB 778, HB 779, HB 781, HB 3549, HB 4139.

SENATE RULES SUSPENDED**(Posting Rules)**

On motion of Senator Duncan and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on State Affairs might meet and consider the following bills today: **HB 647, HB 2265.**

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Ogden and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Finance might meet and consider the following bills today: **HB 1207, HB 3107.**

RECESS

On motion of Senator Whitmire, the Senate at 3:37 p.m. recessed until 5:00 p.m. today.

AFTER RECESS

The Senate met at 5:32 p.m. and was called to order by Senator Brimer.

CONFERENCE COMMITTEE ON HOUSE BILL 88

Senator Hinojosa called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 88** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 88** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Hinojosa, Chair; Brimer, Seliger, Lucio, and Jackson.

SENATE BILL 1886 WITH HOUSE AMENDMENTS

Senator Williams called **SB 1886** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend **SB 1886** (House committee printing) as follows:

(1) In SECTION 30 of the bill, in amended Section 162.403(37), Tax Code (page 35, line 13), strike "or" and substitute "[~~or~~]".

(2) In SECTION 30 of the bill, in amended Section 162.403(38), Tax Code (page 35, line 15), strike the period and substitute the following:

; or

(39) makes a tax-free sale of motor fuel on which the taxes imposed by this chapter have not been previously paid by the seller:

(A) to a person who is not licensed to purchase tax-free motor fuel under this chapter; or

(B) in a transaction or for a purpose that is not exempt under this chapter.

(3) In SECTION 32 of the bill, in amended Section 162.405(e), Tax Code (page 36, lines 7 and 8), strike "or (38) [~~or (39)~~]" and substitute "(38), or (39)"

(4) In SECTION 36 of the bill, in amended Article 12.01(3)(C), Code of Criminal Procedure (page 38, line 26), strike "162.403(21)-(38)" and substitute "162.403(21)-(39)".

Floor Amendment No. 3

Amend **SB 1886** (House committee printing) as follows:

(1) In the recital to SECTION 7 of the bill (page 4, line 2-3), strike "Subdivisions (9), (19), (20), (29), (31), (42), (43), and (55), Section 162.001, Tax Code are amended" and substitute "Section 162.001, Tax Code, is amended by amending Subdivisions (9), (19), (20), (29), (31), (42), (43), and (55), and adding Subdivisions (15-a) and (24-a)".

(2) In SECTION 7 of the bill, after amended Subdivision (9), Section 162.001, Tax Code (page 4, between lines 13 and 14), insert the following:

(15-a) "Commercial end user" means a person who purchases from a licensed distributor motor fuel on which the taxes imposed by this chapter have been paid and who uses the motor fuel exclusively in the person's business.

(3) In SECTION 7 of the bill, after amended Subdivision (20), Section 162.001, Tax Code (page 4, after line 27), insert the following:

(24-a) "Fuel access card" means a card provided to a commercial end user by a licensed distributor that enables the commercial end user to acquire motor fuel from facilities affiliated with the licensed distributor, but only if the credit risk for any purchases is borne by the licensed distributor who provided the fuel access card.

(4) Add the following appropriately numbered SECTION to read as follows and renumber subsequent SECTIONS accordingly:

SECTION _____. Section 162.126, Tax Code, is amended by adding Subsections (h) and (i) to read as follows:

(h) Subsection (e) does not apply to a transaction for which payment is made through the use of a fuel access card by a commercial end user.

(i) A licensed supplier may not take a credit under the circumstances described by Subsection (a).

Floor Amendment No. 5

Amend **SB 1886** (House committee printing) by adding the following appropriately numbered SECTIONS to the bill to read as follows and renumbering subsequent SECTIONS accordingly:

SECTION _____. (a) Subchapter B, Chapter 162, Tax Code, is amended by adding Section 162.1021 to read as follows:

Sec. 162.1021. TEMPORARY REDUCTION IN TAX RATE. (a) Notwithstanding any other provision of this chapter, the tax imposed by this subchapter is reduced from 20 cents for each net gallon or fractional part on which the tax is imposed under Section 162.101 to zero cents for each net gallon or fractional part on which the tax is imposed under Section 162.101.

(b) A distributor or dealer who makes sales of gasoline at retail shall decrease the price of gasoline sold during the period in which this section is in effect to reflect the reduction in the tax. If a distributor or dealer paid tax on the gasoline sold during that period, the distributor or dealer is entitled to a credit or refund of the amount of taxes paid.

(c) If a distributor or dealer fails to decrease the price of gasoline as required by Subsection (b), the person is liable to the comptroller for a penalty in an amount equal to the total amount the person collected from the sale of gasoline during the period this section is in effect in excess of the amount the person should have collected during that period.

(d) A distributor or dealer who fails to decrease the price of gasoline as required by Subsection (a) commits an offense. An offense under this section is a Class B misdemeanor.

(e) The comptroller shall adopt rules to implement this section.

(f) The attorney general's office shall investigate a complaint relating to a violation of this section and may petition a district court for appropriate remedies.

(b) This section expires on the ninety-first day following the effective date of this section.

(c) Notwithstanding any other provision of this Act, this section takes effect immediately if this Act receives a vote of two-thirds of all members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for this section to take effect immediately, this section takes effect on the 91st day after the last day of the legislative session.

SECTION _____. There is appropriated from the general revenue fund for the state fiscal year beginning September 1, 2007, an amount sufficient to reimburse the available school fund and the state highway fund for the amount of revenue the state does not collect from the temporary decrease in the state gasoline tax required by Section 162.1021, Tax Code.

Floor Amendment No. 6

Amend **SB 1886** as follows:

(1) On page 11, strike lines 9 through 12 and substitute the following:

(3) sold to a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the gasoline only to provide those services;

(2) On page 15, line 24, between "is amended by" and "adding", insert "amending Subsection (a) and".

(3) On page 15, between lines 25 and 26, insert the following:

(a) A license holder may take a credit on a return for the period in which the sale occurred if the license holder paid tax on the purchase of gasoline and subsequently resells the gasoline without collecting the tax to:

(1) the United States government for its exclusive use, provided that a credit is not allowed for gasoline used by a person operating under contract with the United States;

(2) a public school district in this state for the district's exclusive use;

(3) an exporter licensed under this subchapter if the seller is a licensed supplier or distributor and the exporter subsequently exports the gasoline to another state;

(4) a licensed aviation fuel dealer if the seller is a licensed distributor; or

(5) a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the gasoline exclusively to provide those services.

(4) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 162, Tax Code, is amended by adding Section 162.1275 to read as follows:

Sec. 162.1275. REFUND FOR CERTAIN METROPOLITAN RAPID TRANSIT AUTHORITIES. (a) Except as otherwise provided by this section, a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that is a party to a contract governed by Section 34.008, Education Code, is entitled to a refund of taxes paid under this subchapter for gasoline used to provide services under the contract and may file a refund claim with the comptroller for the amount of those taxes.

(b) The refund claim under Subsection (a) must contain information regarding:

(1) vehicle mileage;

(2) hours of service provided;

(3) fuel consumed;

(4) the total number of student passengers per route; and

(5) the total number of non-student passengers per route.

(c) If in any month of a school year the number of non-student passengers is greater than five percent of the total passengers for any single route under a contract governed by Section 34.008, Education Code, the metropolitan rapid transit authority is not entitled to a refund of taxes paid under this subchapter for the route for that month.

(d) A metropolitan rapid transit authority that requests a refund under this section shall maintain all supporting documentation relating to the refund until the sixth anniversary of the date of the request.

(5) Strike page 18, line 25 through page 19, line 1 and substitute the following:

(3) diesel fuel sold to a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the diesel fuel only to provide those services;

(6) On page 26, line 21, between "is amended by" and "adding", insert "amending Subsection (a) and".

(7) On page 26, between lines 22 and 23, insert the following:

(a) A license holder may take a credit on a return for the period in which the sale occurred if the license holder paid tax on the purchase of diesel fuel and subsequently resells the diesel fuel without collecting the tax to:

(1) the United States government for its exclusive use, provided that a credit is not allowed for gasoline used by a person operating under a contract with the United States;

(2) a public school district in this state for the district's exclusive use;

(3) an exporter licensed under this subchapter if the seller is a licensed supplier or distributor and the exporter subsequently exports the diesel fuel to another state;

(4) a licensed aviation fuel dealer if the seller is a licensed distributor; or

(5) a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the diesel fuel exclusively to provide those services.

(8) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter C, Chapter 162, Tax Code, is amended by adding Section 162.2275 to read as follows:

Sec. 162.2275. REFUND FOR CERTAIN METROPOLITAN RAPID TRANSIT AUTHORITIES. (a) Except as otherwise provided by this section, a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that is a party to a contract governed by Section 34.008, Education Code, is entitled to a refund of taxes paid under this subchapter for diesel fuel used to provide services under the contract and may file a refund claim with the comptroller for the amount of those taxes.

(b) The refund claim under Subsection (a) must contain information regarding:

(1) vehicle mileage;

(2) hours of service provided;

(3) fuel consumed;

(4) the total number of student passengers per route; and

(5) the total number of non-student passengers per route.

(c) If in any month of a school year the number of non-student passengers is greater than five percent of the total passengers for any single route under a contract governed by Section 34.008, Education Code, the metropolitan rapid transit authority is not entitled to a refund of taxes paid under this subchapter for the route for that month.

(d) A metropolitan rapid transit authority that requests a refund under this section shall maintain all supporting documentation relating to the refund until the sixth anniversary of the date of the request.

SECTION _____. Section 162.3021(b), Tax Code, is amended to read as follows:

(b) Subject to Section 162.3022, the [The] tax imposed by this subchapter does not apply to the sale of liquefied petroleum gas to a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that uses the gas exclusively to provide public school transportation services to a school district under Section 34.008, Education Code, or to the use of liquefied petroleum gas by that company for that purpose. A motor vehicle that uses liquefied petroleum gas and that is owned by a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, and used exclusively to provide public school transportation services to a school district under Section 34.008, Education Code, is not required to have a liquefied gas tax decal or a special use liquefied gas tax decal.

SECTION _____. Subchapter D, Chapter 162, Tax Code, is amended by adding Section 162.3022 to read as follows:

Sec. 162.3022. EXCLUSIVE USE FOR CERTAIN METROPOLITAN RAPID TRANSIT AUTHORITIES. (a) This section applies to a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that is a party to a contract governed by Section 34.008, Education Code, that is not required under Section 162.3021 to have a liquefied gas tax decal or a special use liquefied gas tax decal for liquefied gas used to provide services under the contract.

(b) If in any month of a school year the number of non-student passengers is greater than five percent of the total passengers for any single route under a contract governed by Section 34.008, Education Code, the metropolitan rapid transit authority is liable for the tax under this subchapter in an amount that is prorated for that month.

(c) The metropolitan rapid transit authority shall maintain the following supporting documentation relating to the services provided under the contract until the sixth anniversary of the date of the services provided:

- (1) vehicle mileage;
- (2) hours of service provided;
- (3) fuel consumed;
- (4) the total number of student passengers per route; and
- (5) the total number of non-student passengers per route.

(d) The comptroller may adopt rules to implement this section.

Floor Amendment No. 7

Amend **SB 1886** (House committee printing) by adding the following appropriately numbered SECTION to read as follows and renumbering subsequent SECTIONS accordingly:

SECTION 1. Section 162.227, Tax Code, is amended by adding Subsections (c-1), (c-2), and (d-1) to read as follows:

(c-1) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license under this subchapter may file a refund claim with the comptroller, if the license holder or person paid tax on diesel fuel and the diesel fuel is used in this state:

- (1) as a feedstock in the manufacturing of tangible personal property for resale not as a motor fuel; or
- (2) in a medium for the removal of drill cuttings from a well bore in the production of oil or gas.

(c-2) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license may file a refund claim with the comptroller, if:

- (1) the license holder or person paid tax on diesel fuel;
- (2) the diesel fuel is used in this state by moveable specialized equipment used in oil field well servicing; and
- (3) the person who purchased the diesel fuel has received or is eligible to receive a federal diesel fuel tax refund under the Internal Revenue Code of 1986 for the diesel fuel used by moveable specialized equipment used in oil field well servicing.

(d-1) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license may file a refund claim with the comptroller, if the license holder or person paid tax on diesel fuel and the diesel fuel is used in this state by auxiliary power units or power take-off equipment on any motor vehicle. If the quantity of that diesel fuel can be accurately measured while the motor vehicle is stationary by any metering or other measuring device or method designed to measure the fuel separately from fuel used to propel the motor vehicle, the comptroller may approve and adopt the use of the device as a basis for determining the quantity of diesel fuel consumed in those operations for a tax credit or tax refund. If there is no separate metering device or other approved measuring method, the license holder may take the credit and the person who does not hold a license may claim the refund on a percentage of the diesel fuel consumed by each motor vehicle equipped with an auxiliary power unit or power take-off equipment. The comptroller shall determine the percentage of the credit or refund. The climate-control air conditioning or heating system of a motor vehicle that has a primary purpose of providing for the convenience or comfort of the operator or passengers is not a power take-off system, and a credit or refund may not be allowed for the tax paid on any portion of the diesel fuel that is used for that purpose. A credit or refund may not be allowed for the diesel fuel tax paid on that portion of the diesel fuel that is used for idling.

Floor Amendment No. 8

Amend **SB 1886** (House committee printing) by adding the following appropriately numbered section and renumbering the remaining sections of the bill accordingly:

SECTION _____. Section 1(3), Chapter 1033, Acts of the 71st Legislature, Regular Session, 1989 (Article 8614, Vernon's Texas Civil Statutes), is amended to read as follows:

(3) "Motor fuel" has the meaning given that term by Section 162.001 [~~153.001~~], Tax Code.

Floor Amendment No. 9

Amend **SB 1886** by adding the following appropriately numbered SECTIONS to read as follows and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 162.502(b), Tax Code, is amended to read as follows:

(b) The comptroller shall allocate and deposit these unclaimed refunds as follows:

(1) 25 percent of the revenues based on unclaimed refunds of taxes paid on motor fuel used in motorboats shall be deposited to the credit of the available school fund; and

(2) the remaining 75 percent of the revenue shall be deposited to the credit of the state parks account under Section 11.035, Parks and Wildlife Code [~~general revenue fund~~].

SECTION _____. Section 162.5025(b), Tax Code, is amended to read as follows:

(b) The comptroller shall allocate to the off-highway vehicle trail and recreational area account under Section 11.046, Parks and Wildlife Code [~~general revenue fund~~] the amount determined under Subsection (a)(2).

SECTION _____. Section 162.502(c), Tax Code, is repealed.

The amendments were read.

Senator Williams moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1886** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Williams, Chair; Carona, Brimer, Shapleigh, and Shapiro.

SENATE BILL 1031 WITH HOUSE AMENDMENTS

Senator Shapiro called **SB 1031** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 1031** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the administration of certain assessment instruments in public schools; providing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 18.006(b), Education Code, is amended to read as follows:

(b) In addition to other factors determined to be appropriate by the commissioner, the accountability system must include consideration of:

(1) student performance on the end-of-course [~~secondary exit level~~] assessment instruments required by Section 39.023(c); and

(2) dropout rates, including dropout rates and diploma program completion rates for the grade levels served by the diploma program.

SECTION 2. Section 21.006(b), Education Code, is amended to read as follows:

(b) In addition to the reporting requirement under Section 261.101, Family Code, the superintendent or director of a school district, regional education service center, or shared services arrangement shall notify the State Board for Educator Certification if the superintendent or director has reasonable cause to believe that:

(1) an educator employed by or seeking employment by the district, service center, or shared services arrangement has a criminal record;

(2) an educator's employment at the district, service center, or shared services arrangement was terminated based on a determination that the educator:

(A) abused or otherwise committed an unlawful act with a student or minor;

(B) possessed, transferred, sold, or distributed a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq., and its subsequent amendments;

(C) illegally transferred, appropriated, or expended funds or other property of the district, service center, or shared services arrangement;

(D) attempted by fraudulent or unauthorized means to obtain or alter a professional certificate or license for the purpose of promotion or additional compensation; or

(E) committed a criminal offense or any part of a criminal offense on school property or at a school-sponsored event; ~~[or]~~

(3) the educator resigned and reasonable evidence supports a recommendation by the superintendent or director to terminate the educator based on a determination that the educator engaged in misconduct described by Subdivision (2); or

(4) the educator engaged in conduct that violated the assessment instrument security procedures established under Section 39.0301.

SECTION 3. Section 25.005(b), Education Code, is amended to read as follows:

(b) A reciprocity agreement must:

(1) address procedures for:

(A) transferring student records;

(B) awarding credit for completed course work; and

(C) permitting a student to satisfy the requirements of Section 39.025 through successful performance on comparable end-of-course or other exit-level assessment instruments administered in another state; and

(2) include appropriate criteria developed by the agency.

SECTION 4. Section 29.081(b), Education Code, is amended to read as follows:

(b) Each district shall provide accelerated instruction to a student enrolled in the district who has taken an end-of-course ~~[the secondary exit level]~~ assessment instrument administered under Section 39.023(c) and has not performed satisfactorily on the assessment instrument ~~[each section]~~ or who is at risk of dropping out of school.

SECTION 5. Section 29.087(f), Education Code, as amended by Chapters 283 and 373, Acts of the 78th Legislature, Regular Session, 2003, is reenacted and amended to read as follows:

(f) A student participating in a program authorized by this section, other than a student ordered to participate under Subsection (d)(1), must have taken the appropriate end-of-course assessment instruments specified by Section 39.023(c) ~~[39.023(a) for grade 9]~~ before entering the program and must take each appropriate end-of-course ~~[grade level]~~ assessment instrument administered during the period in which the student is enrolled in the program. Except for a student ordered to participate under Subsection (d)(1), a student participating in the program may not take the high school equivalency examination unless the student has taken the assessment instruments required by this subsection.

SECTION 6. Section 30.021(e), Education Code, is amended to read as follows:

(e) The school shall cooperate with public and private agencies and organizations serving students and other persons with visual impairments in the planning, development, and implementation of effective educational and rehabilitative service delivery systems associated with educating students with visual impairments. To maximize and make efficient use of state facilities, funding, and resources, the services provided in this area may include conducting a cooperative program with other agencies to serve students who have graduated from high school by completing all academic requirements applicable to students in regular education, excluding satisfactory performance under Section 39.025 ~~[on the exit level assessment instrument]~~, who are younger than 22 years of age on September 1 of the school year and who have identified needs related to vocational training, independent living skills, orientation and mobility, social and leisure skills, compensatory skills, or remedial academic skills.

SECTION 7. Section 39.023, Education Code, is amended by amending Subsections (a) and (c) and adding Subsections (c-1), (c-2), and (c-3) to read as follows:

(a) The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science. All students, except students assessed under Subsection (b) or (l) or exempted under Section 39.027, shall be assessed in:

(1) mathematics, annually in grades three through seven without the aid of technology and in grade ~~[grades]~~ eight ~~[through 11]~~ with the aid of technology on any assessment instrument ~~[instruments]~~ that ~~includes~~ ~~[include]~~ algebra;

(2) reading, annually in grades three through ~~eight~~ ~~[nine]~~;

(3) writing, including spelling and grammar, in grades four and seven;

(4) ~~[English language arts, in grade 10;~~

~~(5)]~~ social studies, in grade ~~[grades]~~ eight ~~[and 10]~~;

(5) ~~(6)~~ science, in grades five and ~~[7]~~ eight ~~[, and 10]~~; and

(6) ~~(7)~~ any other subject and grade required by federal law.

(c) The agency shall also adopt end-of-course ~~[secondary exit level]~~ assessment instruments for secondary-level courses in Algebra I, Algebra II, geometry, biology, chemistry, physics, English I, English II, English III, world geography, world history, and United States history. A school district shall comply with State Board of Education rules regarding administration of the assessment instruments listed in this subsection and shall adopt a policy that requires a student's performance on an end-of-course assessment instrument for a course listed in this subsection in which the student is enrolled to account for 15 percent of the student's final grade for the course ~~[designed to be administered to students in grade 11 to assess essential knowledge and skills in mathematics, English language arts, social studies, and science. The mathematics section must include at least Algebra I and geometry with the aid of technology. The English language arts section must include at least English III and must include the assessment of essential knowledge and skills in writing. The social studies section must include early American and United States history. The science section must include at least biology and integrated chemistry and physics. The assessment instruments must be designed to assess a student's mastery of minimum~~

~~skills necessary for high school graduation and readiness to enroll in an institution of higher education]. If a student is in a special education program under Subchapter A, Chapter 29, the student's admission, review, and dismissal committee shall determine whether any allowable modification is necessary in administering to the student an assessment instrument required under this subsection or whether the student should be exempted under Section 39.027(a)(2). The State Board of Education shall administer the assessment instruments. The State Board of Education shall adopt a schedule for the administration of end-of-course [secondary exit level] assessment instruments that complies with the requirements of Subsection (c-3). Each student who did not perform satisfactorily on any end-of-course [secondary exit level] assessment instrument when initially tested shall be given multiple opportunities to retake that assessment instrument. [A student who performs at or above a level established by the Texas Higher Education Coordinating Board on the secondary exit level assessment instruments is exempt from the requirements of Section 51.306.]~~

(c-1) The agency shall develop any assessment instrument required under this section in a manner that allows for the measurement of annual improvement in student achievement as required by Sections 39.034(c) and (d).

(c-2) The agency may adopt end-of-course assessment instruments for courses not listed in Subsection (c). A student's performance on an end-of-course assessment instrument adopted under this subsection is not subject to the performance requirements established under Subsection (c) or Section 39.025.

(c-3) In adopting a schedule for the administration of the end-of-course assessment instruments under Subsection (c), the State Board of Education shall require the spring administration of the assessment instruments to occur in each school district not earlier than the first full week in May, except that the spring administration of the end-of-course assessment instruments in English I, English II, and English III must be permitted to occur at an earlier date.

SECTION 8. Subchapter B, Chapter 39, Education Code, is amended by adding Sections 39.0233 and 39.0234 to read as follows:

Sec. 39.0233. OPTIONAL QUESTIONS INCLUDED IN END-OF-COURSE ASSESSMENT INSTRUMENTS. (a) The agency, in coordination with the Texas Higher Education Coordinating Board, shall adopt a series of optional questions to be included in an end-of-course assessment instrument administered under Section 39.023(c) to be used for purposes of Section 51.3062. The optional questions adopted under this subsection must be developed in a manner consistent with any college readiness standards adopted under Sections 39.113 and 51.3062.

(b) In addition to the questions adopted under Subsection (a), the agency shall adopt a series of optional questions to be included in an end-of-course assessment instrument administered under Section 39.023(c) to be used for purposes of identifying students who are likely to succeed in an advanced high school course. A school district shall notify a student who performs at a high level on the optional questions adopted under this subsection and the student's parent or guardian of the student's performance and potential to succeed in an advanced high school course. A school district may not require a student to perform at a particular level on the optional questions adopted under this subsection in order to be eligible to enroll in an advanced high school course.

(c) A student's performance on an optional question adopted under this section may not be used to determine the student's performance on an end-of-course assessment instrument.

Sec. 39.0234. ADMINISTRATION OF ASSESSMENT INSTRUMENTS BY COMPUTER. (a) The agency shall provide for assessment instruments required under Section 39.023 to be designed so that those assessment instruments can be administered by computer.

(b) Not later than September 1, 2008, each school district shall provide the agency with data regarding the ability of the district to administer to students assessment instruments required under Section 39.023 by computer. The agency shall compile the data provided by school districts under this subsection into a report recommending a plan and timeline for enabling each district in this state to administer the assessment instruments by computer. Not later than December 1, 2008, the agency shall deliver the report to each member of the legislature. This subsection expires June 1, 2009.

SECTION 9. Section 39.025, Education Code, is amended to read as follows:

Sec. 39.025. SECONDARY-LEVEL [~~EXIT LEVEL~~] PERFORMANCE REQUIRED. (a) The commissioner shall adopt rules requiring each high school student enrolled in a course for which an end-of-course assessment instrument is adopted under Section 39.023(c) to be administered the assessment instrument. A student may not receive a high school diploma until the student has performed satisfactorily on the end-of-course [~~secondary exit level~~] assessment instruments for the following courses:

- (1) English language arts III;
- (2) either Algebra II or geometry;
- (3) either biology, chemistry, or physics; and
- (4) either world geography, world history, or United States history [~~English language arts, mathematics, social studies, and science administered under Section 39.023(e)~~].

(a-1) Subsection (a) [~~This subsection~~] does not require a student to demonstrate readiness to enroll in an institution of higher education.

(a-2) The commissioner by rule shall allow a student's satisfactory performance on an advanced placement test, international baccalaureate examination, a Scholastic Assessment Test (SAT) Subject Test, or another assessment instrument determined by the commissioner to be at least as rigorous as an end-of-course assessment instrument adopted under Section 39.023(c) to be used to satisfy a requirement of Subsection (a).

(b) Each time an end-of-course [~~a secondary exit level~~] assessment instrument is administered, a student who has not been given a high school diploma because of a failure to perform satisfactorily on the assessment instrument [~~for that subject area~~] may retake the assessment instrument.

(c) A student who has been denied a high school diploma under this section [~~Subsections (a) and (b)~~] and who subsequently performs satisfactorily on each necessary end-of-course [~~secondary exit level~~] assessment instrument shall be issued a high school diploma.

(d) Notwithstanding Subsection (a), the commissioner by rule shall adopt one or more alternative nationally recognized norm referenced assessment instruments under this section to administer to a student to qualify for a high school diploma if the student enrolls after January 1 of the school year in which the student is otherwise eligible to graduate:

(1) for the first time in a public school in this state; or

(2) after an absence of at least four years from any public school in this state.

(e) The commissioner shall establish a required performance level for an assessment instrument adopted under Subsection (d) that is at least as rigorous as the performance level for the end-of-course [~~secondary exit level~~] assessment instrument for the same subject.

(f) The commissioner shall by rule adopt a transition plan to implement the amendments made by S.B. No. 1031, Acts of the 80th Legislature, Regular Session, 2007, to this section and Sections 39.023(a) and (c) and 39.051(b)(5). The rules must provide for the end-of-course assessment instruments adopted under Section 39.023(c) to be administered beginning with students entering the ninth grade during the 2011-2012 school year. During the period under which the transition to end-of-course assessment instruments is made:

(1) for students entering a grade above the ninth grade during the 2011-2012 school year, the commissioner shall retain, administer, and use for campus and district ratings under Subchapter D the assessment instruments required by Section 39.023(a) or (c), as that section existed before amendment by S.B. No. 1031, Acts of the 80th Legislature, Regular Session, 2007; and

(2) the agency may defer releasing assessment instrument questions and answer keys as required by Section 39.023(e) to the extent necessary to develop additional assessment instruments.

(g) Rules adopted under Subsection (f) must require that each student who will be subject to the requirements of Subsection (a) is entitled to notice of the specific requirements applicable to the student. Notice under this subsection must be provided not later than the date the student enters the seventh grade. Subsection (f) and this subsection expire September 1, 2015.

SECTION 10. Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.0261 to read as follows:

Sec. 39.0261. COLLEGE PREPARATION ASSESSMENTS. (a) In addition to the assessment instruments otherwise authorized or required by this subchapter:

(1) each school year and at state cost, a school district shall administer to students in the spring of the eighth grade an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument for the purpose of diagnosing the academic strengths and deficiencies of students before entrance into high school;

(2) each school year and at state cost, a school district shall administer to students in the 10th grade an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument for the purpose of measuring a student's progress toward readiness for college and the workplace; and

(3) high school students in the spring of the 11th grade or during the 12th grade may select and take once, at state cost, one of the valid, reliable, and nationally norm-referenced assessment instruments used by colleges and universities as part of their undergraduate admissions processes.

(b) The agency shall:

(1) select and approve vendors of the specific assessment instruments administered under this section; and

(2) pay all fees associated with the administration of the assessment instrument from funds allotted under the Foundation School Program, and the commissioner shall reduce the total amount of state funds allocated to each district from any source in the same manner described for a reduction in allotments under Section 42.253.

(c) The agency shall ensure that vendors are not paid under Subsection (b) for the administration of an assessment instrument to a student to whom the assessment instrument is not actually administered. The agency may comply with this subsection by any reasonable means, including by creating a refund system under which a vendor returns any payment made for a student who registered for the administration of an assessment instrument but did not appear for the administration.

(d) A vendor that administers an assessment instrument for a district under this section shall report the results of the assessment instrument to the agency. The agency shall:

(1) include a student's results on the assessment instrument in the electronic student records system established under Section 7.010; and

(2) ensure that a student and the student's parent receive a report of the student's results on the assessment instrument.

(e) Subsection (a)(3) does not prohibit a high school student in the spring of the 11th grade or during the 12th grade from selecting and taking, at the student's own expense, one of the valid, reliable, and nationally norm-referenced assessment instruments used by colleges and universities as part of their undergraduate admissions processes more than once.

SECTION 11. Subchapter B, Chapter 39, Education Code, is amended by adding Sections 39.0301, 39.0302, 39.0303, and 39.0304 to read as follows:

Sec. 39.0301. SECURITY IN ADMINISTRATION OF ASSESSMENT INSTRUMENTS. (a) The commissioner:

(1) shall establish procedures for the administration of assessment instruments adopted or developed under Section 39.023, including procedures designed to ensure the security of the assessment instruments; and

(2) may establish record retention requirements for school district records related to the security of assessment instruments.

(b) The commissioner may develop and implement statistical methods and standards for identifying potential violations of procedures established under Subsection (a) to ensure the security of assessment instruments adopted or developed under Section 39.023. In developing the statistical methods and standards, the commissioner may include indicators of:

(1) potential violations that are monitored annually; and

(2) patterns of inappropriate assessment practices that occur over time.

(c) The commissioner may establish one or more advisory committees to advise the commissioner and agency regarding the monitoring of assessment practices and the use of statistical methods and standards for identifying potential violations of assessment instrument security, including standards to be established by the commissioner for selecting school districts for investigation for a potential assessment security violation under Subsection (e). The commissioner may not appoint an agency employee to an advisory committee established under this subsection.

(d) Any document created for the deliberation of an advisory committee established under Subsection (c) or any recommendation of such a committee is confidential and not subject to disclosure under Chapter 552, Government Code. Except as provided by Subsection (e), the statistical methods and standards adopted under this section and the results of applying those methods and standards are confidential and not subject to disclosure under Chapter 552, Government Code.

(e) The agency may conduct an investigation of a school district for a potential violation of assessment instrument security in accordance with the standards described by Subsection (c). Each school year, after completing all investigations of school districts selected for investigation, the agency shall disclose the identity of each district selected for investigation and the statistical methods and standards used to select the district.

(f) At any time, the commissioner may authorize the audit of a random sample of school districts to determine the compliance of the districts with procedures established under Subsection (a). The identity of each school district selected for audit under this subsection is confidential and not subject to disclosure under Chapter 552, Government Code, except that the agency shall disclose the identity of each district after completion of the audit.

Sec. 39.0302. ISSUANCE OF SUBPOENAS. (a) During an agency investigation or audit of a school district under Section 39.0301(e) or (f), an accreditation investigation under Section 39.075(a)(8), or an investigation by the State Board for Educator Certification of an educator for an alleged violation of an assessment instrument security procedure established under Section 39.0301(a), the commissioner may issue a subpoena to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence that is located in this state.

(b) A subpoena may be served personally or by certified mail.

(c) If a person fails to comply with a subpoena, the commissioner, acting through the attorney general, may file suit to enforce the subpoena in a district court in this state. On finding that good cause exists for issuing the subpoena, the court shall order the person to comply with the subpoena. The court may punish a person who fails to obey the court order.

(d) All information and materials subpoenaed or compiled in connection with an investigation or audit described by Subsection (a):

(1) are confidential and not subject to disclosure under Chapter 552, Government Code; and

(2) are not subject to disclosure, discovery, subpoena, or other means of legal compulsion for release to any person other than:

(A) the commissioner or the State Board for Educator Certification, as applicable;

(B) agency employees or agents involved in the investigation, as applicable; and

(C) the office of the attorney general, the state auditor's office, and law enforcement agencies.

Sec. 39.0303. SECURE ASSESSMENT INSTRUMENTS; CRIMINAL PENALTY. (a) A person commits an offense if:

(1) the person intentionally discloses the contents of any portion of a secure assessment instrument developed or administered under this subchapter, including the answer to any item in the assessment instrument; and

(2) the disclosure affects or is likely to affect the individual performance of one or more students on the assessment instrument.

(b) An offense under this section is a Class C misdemeanor.

Sec. 39.0304. TRAINING IN ASSESSMENT INSTRUMENT ADMINISTRATION. (a) To ensure that each administration of assessment instruments under Section 39.023 is valid, reliable, and in compliance with the requirements of this subchapter, the commissioner may require training for school district employees involved in the administration of the assessment instruments.

(b) The training under Subsection (a) may include a qualifying component to ensure that school district employees involved in the administration of assessment instruments under Section 39.023 possess the necessary skills and knowledge required to administer the assessment instruments.

(c) The commissioner may adopt rules necessary to implement this section.

SECTION 12. Section 39.034(d), Education Code, is amended to read as follows:

(d) The agency shall determine the necessary annual improvement required each year for a student to be prepared to perform satisfactorily on ~~[pass]~~ the end-of-course assessment instruments ~~[exit-level assessment instrument]~~ required under this subchapter for graduation. The agency shall report the necessary annual improvement required to the district. Each year, the report must state whether the student fell below, met, or exceeded the necessary target for improvement.

SECTION 13. Subchapter B, Chapter 39, Education Code, is amended by adding Sections 39.035 and 39.036 to read as follows:

Sec. 39.035. LIMITATION ON FIELD TESTING OF ASSESSMENT INSTRUMENTS. (a) The agency shall limit field testing of questions for any assessment instrument administered under Section 39.023(a), (b), (c), (d), or (l) to the minimum number of field tests necessary to ensure the validity of the questions.

(b) The agency may conduct field testing of questions for any assessment instrument administered under Section 39.023(a), (b), (c), (d), or (l) that is separate from the administration of the assessment instrument only in a manner that minimizes the frequency with which any particular campus is required to administer the field tests.

Sec. 39.036. VERTICAL SCALE FOR CERTAIN ASSESSMENT INSTRUMENTS. (a) The agency shall develop a vertical scale for assessing student performance on assessment instruments administered under Sections 39.023(a)(1) and (2) in a manner that allows the agency to compare the performance of a student on the assessment instruments from one grade level to the next.

(b) The commissioner shall adopt rules necessary to implement this section.

(c) Not later than June 1, 2008, the agency shall develop a vertical scale as required by Subsection (a). The agency shall implement the vertical scale in the administration of assessment instruments under Sections 39.023(a)(1) and (2) beginning with the 2008-2009 school year. This subsection expires September 1, 2009.

SECTION 14. Section 39.051(b), Education Code, is amended to read as follows:

(b) Performance on the indicators adopted under this section shall be compared to state-established standards. The degree of change from one school year to the next in performance on each indicator adopted under this section shall also be considered. The indicators must be based on information that is disaggregated by race, ethnicity, gender, and socioeconomic status and must include:

(1) the results of assessment instruments required under Sections 39.023(a), (c), and (l), aggregated by grade level and subject area;

(2) dropout rates, including dropout rates and district completion rates for grade levels 9 through 12, computed in accordance with standards and definitions adopted by the National Center for Education Statistics of the United States Department of Education;

(3) high school graduation rates, computed in accordance with standards and definitions adopted in compliance with the No Child Left Behind Act of 2001 (Pub. L. No. 107-110);

(4) student attendance rates;

(5) the percentage of graduating students who attain scores on the optional questions developed for end-of-course ~~[secondary exit level]~~ assessment instruments under Section 39.0233(a) ~~[required under Subchapter B]~~ that are equivalent to a passing score on the assessment instrument required under Section 51.3062;

(6) the percentage of graduating students who meet the course requirements established for the recommended high school program by State Board of Education rule;

(7) the results of the Scholastic Assessment Test (SAT), the American College Test (ACT), articulated postsecondary degree programs described by Section 61.852, and certified workforce training programs described by Chapter 311, Labor Code;

(8) the percentage of students, aggregated by grade level, provided accelerated instruction under Section 28.0211(c), the results of assessments administered under that section, the percentage of students promoted through the grade placement committee process under Section 28.0211, the subject of the assessment instrument on which each student failed to perform satisfactorily, and the performance of those students in the school year following that promotion on the assessment instruments required under Section 39.023;

(9) for students who have failed to perform satisfactorily on an assessment instrument required under Section 39.023(a) or (c), the numerical progress of those students grouped by percentage on subsequent assessment instruments required under those sections, aggregated by grade level and subject area;

(10) the percentage of students exempted, by exemption category, from the assessment program generally applicable under this chapter;

(11) the percentage of students of limited English proficiency exempted from the administration of an assessment instrument under Sections 39.027(a)(3) and (4);

(12) the percentage of students in a special education program under Subchapter A, Chapter 29, assessed through assessment instruments developed or adopted under Section 39.023(b);

(13) the measure of progress toward preparation for postsecondary success; and

(14) the measure of progress toward dual language proficiency under Section 39.034(b), for students of limited English proficiency, as defined by Section 29.052.

SECTION 15. Section 39.075(a), Education Code, is amended to read as follows:

(a) The commissioner shall authorize special accreditation investigations to be conducted:

(1) when excessive numbers of absences of students eligible to be tested on state assessment instruments are determined;

(2) when excessive numbers of allowable exemptions from the required state assessment instruments are determined;

(3) in response to complaints submitted to the agency with respect to alleged violations of civil rights or other requirements imposed on the state by federal law or court order;

(4) in response to established compliance reviews of the district's financial accounting practices and state and federal program requirements;

(5) when extraordinary numbers of student placements in disciplinary alternative education programs, other than placements under Sections 37.006 and 37.007, are determined;

(6) in response to an allegation involving a conflict between members of the board of trustees or between the board and the district administration if it appears that the conflict involves a violation of a role or duty of the board members or the administration clearly defined by this code;

(7) when excessive numbers of students in special education programs under Subchapter A, Chapter 29, are assessed through assessment instruments developed or adopted under Section 39.023(b); ~~or~~

(8) in response to an allegation regarding or an analysis using a statistical method result indicating a possible violation of an assessment instrument security procedure established under Section 39.0301, including for the purpose of investigating or auditing a school district under that section; or

(9) ~~(8)~~ as the commissioner otherwise determines necessary.

SECTION 16. Section 51.3062(q), Education Code, is amended to read as follows:

(q) A student who has achieved scores ~~[a score]~~ set by the board on the optional questions developed for end-of-course assessment instruments ~~[an exit level assessment instrument required]~~ under Section 39.0233(a) ~~[39.023]~~ is exempt from the requirements of this section. The exemption is effective for the three-year period following the date a student takes the last assessment instrument for purposes of this section and achieves the standard set by the board. This subsection does not apply during any period for which the board designates the optional questions developed for end-of-course assessment instruments ~~[exit level assessment instrument required]~~ under Section 39.0233(a) ~~[39.023]~~ as the primary assessment instrument under this section, except that the three-year period described by this subsection remains in effect for students who qualify for an exemption under this subsection ~~[section]~~ before that period.

SECTION 17. Section 39.023(j), Education Code, is repealed.

SECTION 18. A reference in the Education Code to an end-of-course assessment instrument administered under Section 39.023(c), Education Code, includes an exit-level assessment instrument administered under that section as provided by Section 39.025(f), Education Code, as added by this Act.

SECTION 19. (a) Except as otherwise provided by this Act, this Act applies beginning with the 2007-2008 school year.

(b) Beginning with the 2007-2008 school year, the commissioner of education may conduct random audits as authorized under Section 39.0301(f), Education Code, as added by this Act. Beginning with the 2008-2009 school year, the commissioner of education may conduct accreditation investigations as authorized under Section 39.075(a)(8), Education Code, as added by this Act.

(c) During the 2008-2009 school year, the commissioner of education may use the statistical methods and standards established under Section 39.0301(b), Education Code, as added by this Act, on a pilot basis to test the accuracy and predictive validity of the methods and standards. Pilot statistical methods and standards developed for use in the 2008-2009 school year are confidential and not subject to disclosure under Chapter 552, Government Code. Without releasing the pilot statistical methods, the commissioner of education shall release the results of any investigation conducted on the basis of those methods during the 2008-2009 school year on completion of the investigation.

SECTION 20. This Act takes effect September 1, 2007.

Floor Amendment No. 1

Amend **CSSB 1031** (House committee printing) as follows:

(1) In the recital to SECTION 7 of the bill (page 5, line 2), strike "(c-2), and (c-3)" and substitute "(c-2), (c-3), (c-4), and (c-5)".

(2) In SECTION 7 of the bill, in amended Section 39.023(c), Education Code (page 6, line 1), between "history." and "A school", insert "The Algebra I, Algebra II, and geometry end-of-course assessment instruments must be administered with the aid of technology.".

(3) In SECTION 7 of the bill, in amended Section 39.023, Education Code (page 7, between lines 25 and 26), insert the following:

(c-4) To the extent practicable, the agency shall ensure that each end-of-course assessment instrument adopted under Subsection (c) is:

(1) developed in a manner that measures a student's performance under the college readiness standards established under Section 28.008; and

(2) validated by national postsecondary education experts for college readiness content and performance standards.

(c-5) A student's performance on an end-of-course assessment instrument required under Subsection (c) must be included in the student's academic achievement record.

(4) In SECTION 8 of the bill, in the heading to added Section 39.0233, Education Code (page 8, line 1), strike "OPTIONAL" and substitute "SPECIAL-PURPOSE".

(5) In SECTION 8 of the bill, in added Section 39.0233, Education Code (page 8, lines 4, 6, 11, 16, and 20), strike "optional" each place it appears.

(6) In SECTION 8 of the bill, in added Section 39.0233, Education Code (page 8, lines 22 through 24), strike added Subsection (c) and substitute the following:

(c) The State Board of Education shall establish a level of performance on the questions adopted under this section that indicates a student's college readiness. A student's performance on the questions adopted under this section must be evaluated separately from the student's performance on the remainder of the assessment instrument. A student's performance on a question adopted under this section may not be used to determine the student's performance on the assessment instrument for purposes of Section 39.023 or 39.025. The commissioner shall adopt rules concerning the reporting of a student's performance on the questions adopted under this section.

(7) In SECTION 9 of the bill, in amended Section 39.025(b), Education Code (page 10, line 15), immediately following "assessment instrument.", insert "A student is not required to retake a course as a condition of retaking an assessment instrument under this subsection.".

(8) In SECTION 14 of the bill, in amended Section 39.051(b)(5), Education Code (page 20, line 12), strike "optional".

(9) In SECTION 16 of the bill, in amended Section 51.3062(q), Education Code (page 23, lines 8 and 15), strike "optional" each place it appears.

(10) Immediately following SECTION 18 of the bill (page 23, immediately following line 27), insert the following appropriately numbered SECTION and renumber the subsequent SECTIONS of the bill accordingly:

SECTION _____. On the expiration of any contract entered into before September 1, 2007, between the Texas Education Agency and a vendor for the development of assessment instruments required under Section 39.023, Education Code, the Texas Education Agency shall issue a request for proposals for the development of end-of-course assessment instruments required under Section 39.023(c), Education Code, as amended by this Act. The Texas Education Agency may allow a vendor with whom the agency has contracted for the development of assessment instruments under Section 39.023, Education Code, before September 1, 2007, to begin developing end-of-course assessment instruments required under Section 39.023(c), Education Code, as amended by this Act, before the expiration of the contract.

Floor Amendment No. 2

Amend **CSSB 1031** (House committee printing) as follows:

(1) Immediately following SECTION 6 of the bill (page 4, between lines 26 and 27), insert the following appropriately numbered SECTION and renumber the subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 39, Education Code, is amended by adding Subchapter A to read as follows:

SUBCHAPTER A. COMPREHENSIVE REVIEW OF PUBLIC SCHOOL
ACCOUNTABILITY SYSTEM

Sec. 39.001. SELECT COMMITTEE ON PUBLIC SCHOOL
ACCOUNTABILITY. (a) The Select Committee on Public School Accountability is established to conduct a comprehensive review of the public school accountability system.

(b) The committee is composed of 15 members appointed as follows:

(1) the presiding officers of the standing committees of each house of the legislature with primary jurisdiction over public education;

(2) one member of the senate, appointed by the lieutenant governor;

(3) one member of the house of representatives, appointed by the speaker of the house of representatives;

(4) the commissioner;

(5) the commissioner of higher education;

(6) one public school teacher, one public school principal, and one public school district superintendent, each currently employed in this state and each appointed jointly by the lieutenant governor and the speaker of the house of representatives;

(7) two persons each of whom is currently employed as an educator in a public school in this state and each appointed jointly by the lieutenant governor and the speaker of the house of representatives;

(8) one representative from the business community or the public, appointed by the lieutenant governor;

(9) one representative from the business community or the public, appointed by the speaker of the house of representatives; and

(10) two representatives from the business community and the public, at least one of whom has one or more children who currently attend public school in this state, appointed by the governor.

(c) The governor, lieutenant governor, and speaker of the house of representatives shall make the appointments required by Subsection (b) in a timely fashion to permit the committee to comply with Section 39.002(a).

Sec. 39.002. COMMITTEE MEETINGS. (a) Not later than October 1, 2007, the committee shall hold an organizational meeting.

(b) The presiding officers described by Section 39.001(b)(1) serve as co-chairs of the committee.

(c) Committee meetings shall be held at the call of the co-chairs.

Sec. 39.003. COMPENSATION AND REIMBURSEMENT. (a) A member of the committee is entitled to reimbursement for actual and necessary expenses incurred in performing committee duties.

(b) A legislative member of the committee is entitled to reimbursement from the appropriate fund of the house of the legislature in which the member serves.

(c) A member other than a legislative member is entitled to reimbursement from funds appropriated to the committee.

Sec. 39.004. COMMITTEE STAFF. Staff members of the standing committees described by Section 39.001(b)(1) shall serve as the staff of the committee.

Sec. 39.005. OBJECTIVES OF STUDY. (a) The committee shall conduct a comprehensive review of the public school accountability system. In conducting its review, the committee shall study the mission, organizational structure, design, processes, and practices of similar accountability systems in other states and the requirements established by federal law.

(b) A review under this section must include a thorough study of:

(1) each element of the accountability system prescribed by this chapter, with special emphasis on:

(A) the indicators used to determine accreditation status;

(B) rewards and incentives for campus excellence; and

(C) the responsibilities of the commissioner in assisting and, if necessary, imposing sanctions on districts that do not meet state performance standards;

(2) the extent to which the accountability system is aligned with the requirements prescribed by the No Child Left Behind Act of 2001 (20 U.S.C. Section 6301 et seq.);

(3) the extent to which the accountability system reflects the public education mission, objectives, and goals provided by Chapter 4;

(4) the extent to which the accountability system meets public expectations;

(5) the extent to which the accountability system fairly and accurately reports the effectiveness of educators, instructional programs, support services, and financial expenditures and the impact of these elements on student achievement;

(6) the methods available to monitor the progress of each public school student, with special emphasis on methods to monitor demonstrable growth in academic achievement;

(7) the performance indicators that would successfully measure the effectiveness of the campus teaching and learning environment, including the effect of student discipline on that environment;

(8) the effectiveness of the accountability system in reporting the performance of open-enrollment charter schools and alternative education programs;

(9) the implementation of statewide assessment instruments, including specifically end-of-course assessment instruments;

(10) the extent to which the accountability system measures the performance of districts and campuses on important indicators and aspects of the educational process, other than student scores on standardized assessment instruments;

(11) the extent to which the accountability system clearly and accurately reports to parents and interested persons the overall performance of districts and campuses; and

(12) the extent to which the accountability system considers the different student demographics of districts and campuses.

(c) The committee shall conduct public hearings throughout the state and solicit testimony about the accountability system from parents of public school children and other interested persons. At least one public hearing must be held at a public school during a time that public school students are able to attend the hearing.

(d) The commissioner shall ensure that the committee has access to any documentation and agency personnel the committee requests.

(e) The Legislative Budget Board, comptroller, state auditor, and any other state agency, official, or personnel shall cooperate with the committee in carrying out its duties under this subchapter.

(f) The committee may coordinate the study under this subchapter with any other legislative study, as appropriate.

Sec. 39.006. REPORT. (a) Not later than December 1, 2008, the committee shall provide a report that:

(1) states the findings of the study conducted under this subchapter; and

(2) includes any recommendations for statutory changes.

(b) The report must be approved by a majority of the committee members. A member who disagrees with any part of the report may attach a dissenting statement to the report.

Sec. 39.007. EXPIRATION. This subchapter expires January 13, 2009.

(2) In SECTION 17 of the bill (page 23, line 22), between "SECTION 17." and "Section", insert "(a)".

(3) In SECTION 17 of the bill (page 23, between lines 22 and 23), insert the following:

(b) Effective September 1, 2011, Subchapters C, D, and E, Chapter 39, Education Code, are repealed.

(4) In SECTION 20 of the bill (page 24, line 20), strike "This Act" and substitute "Except as otherwise provided by this Act, this Act".

Floor Amendment No. 3

Amend **CSSB 1031** (House committee printing) as follows:

(1) In the recital to SECTION 7 of the bill (page 5, line 2), strike "(c-2), and (c-3)" and substitute "(c-2), (c-3), and (c-4)".

(2) In SECTION 7 of the bill, in amended Section 39.023, Education Code (page 7, lines 9 through 12), strike added Subsection (c-1) and substitute the following:

(c-1) Any assessment instrument required under this section must allow for the measurement of annual improvement in student achievement as required by Sections 39.034(c) and (d).

(3) In SECTION 7 of the bill, in amended Section 39.023, Education Code (page 7, between lines 25 and 26), insert the following:

(c-4) In adopting an end-of-course assessment instrument under this section, the agency shall consider the use of an existing assessment instrument that is currently available.

(4) In SECTION 8 of the bill, in added Section 39.0234, Education Code (page 8, line 26, through page 9, line 1), strike added Subsection (a) and substitute the following:

(a) The agency shall ensure that assessment instruments required under Section 39.023 are capable of being administered by computer.

Floor Amendment No. 4

Amend **CSSB 1031** (House committee printing) as follows:

(1) Immediately preceding SECTION 1 of the bill (page 1, between lines 4 and 5), insert the following appropriately numbered SECTION:

SECTION _____. Section 12.104(b), Education Code, is amended to read as follows:

(b) An open-enrollment charter school is subject to:

(1) a provision of this title establishing a criminal offense; and

(2) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B) criminal history records under Subchapter C, Chapter 22;

(C) reading instruments and accelerated reading instruction programs under Section 28.006;

(D) requirements for promotion [satisfactory performance on assessment instruments] and [to] accelerated instruction under Section 28.0211;

(E) high school graduation under Section 28.025;

(F) special education programs under Subchapter A, Chapter 29;

(G) bilingual education under Subchapter B, Chapter 29;

(H) prekindergarten programs under Subchapter E, Chapter 29;

(I) extracurricular activities under Section 33.081;

(J) discipline management practices or behavior management techniques under Section 37.0021;

(K) health and safety under Chapter 38;

(L) public school accountability under Subchapters B, C, D, and G, Chapter 39;

(M) the requirement under Section 21.006 to report an educator's misconduct; and

(N) intensive programs of instruction under Section 28.0213.

(2) Immediately following SECTION 3 of the bill (page 3, between lines 13 and 14), insert the following appropriately numbered SECTION:

SECTION _____. Section 28.0211, Education Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Except as provided by Subsection (b) or (e), a student may not be promoted to:

(1) the fourth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the third grade reading assessment instrument under Section 39.023;

(2) the sixth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the fifth grade mathematics and reading assessment instruments under Section 39.023; or

(3) the ninth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily in the eighth grade reading and mathematics courses in which the student is enrolled, including a failure to perform satisfactorily in the courses due to the student's failure to perform satisfactorily on the eighth grade mathematics and reading assessment instruments under Section 39.023.

(a-1) For purposes of this section, a student is entitled to retake an assessment instrument specified under Subsection (a)(3) and receive accelerated instruction in the manner provided by this section if the student's failure to perform satisfactorily in the eighth grade reading and mathematics courses in which the student is enrolled is due to the student's failure to perform satisfactorily on the eighth grade mathematics and reading assessment instruments under Section 39.023.

(3) In the recital to SECTION 7 of the bill (page 5, line 1), between "Subsections" and "(c-1)", insert "(a-1), (a-2)".

(4) In SECTION 7 of the bill, in amended Section 39.023, Education Code (page 5, between lines 23 and 24), insert the following:

(a-1) The State Board of Education by rule shall require each assessment instrument administered under Subsection (a) to students in grade six, seven, or eight to be an end-of-course assessment instrument. A school district shall comply with State Board of Education rules regarding administration of the end-of-course assessment instruments to students in grade six, seven, or eight and shall adopt a policy that requires a student's performance on an end-of-course assessment instrument to account for 15 percent of the student's final grade for the course in which the assessment instrument is administered. The end-of-course assessment instruments must be designed to assess the student's essential knowledge and skills in the designated course, the student's mastery of minimum skills necessary for promotion to the next grade level, and the student's readiness for advanced coursework.

(a-2) The State Board of Education shall adopt rules requiring each assessment instrument administered under Subsection (a) to students in grade six, seven, or eight to be an end-of-course assessment instrument beginning with the 2011-2012 school year. This subsection expires August 1, 2012.

(5) In SECTION 14 of the bill, in amended Section 39.051(b), Education Code (page 21, line 2), between "on which" and "each student", insert "or the subject in which".

(6) Renumber the subsequent SECTIONS of the bill accordingly.

Floor Amendment No. 6

Amend **CSSB 1031** (House committee printing) in SECTION 7 of the bill, in amended Subsection (a)(4), Section 39.023, Education Code, between "social studies," and "in grade" (page 5, line 18), by inserting "including Texas history,".

Floor Amendment No. 7

Amend **CSSB 1031** by adding the following appropriately numbered SECTIONS and renumbering the following SECTIONS accordingly:

SECTION _____. Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.035 to read as follows:

Sec. 39.035. LIMITATION ON FIELD TESTING OF ASSESSMENT INSTRUMENTS. (a) The agency may conduct field testing of questions for any assessment instrument administered under Section 39.023(a), (b), (c), (d), or (l) that is separate from the administration of the assessment instruments:

(1) only during the spring semester after the assessment instruments are administered; and

(2) on the same school campus only once during a period of four school years.

(b) The agency shall ensure that field testing is conducted on a rotating basis among campuses in the state.

SECTION _____. Section 39.023, Education Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) In adopting a schedule for the administration of assessment instruments under this section, the State Board of Education shall require assessment instruments administered under Subsection (a) to be administered on a schedule so that the first assessment instrument is administered at least two weeks later than the date on which the first assessment instrument was administered under Subsection (a) during the 2006-2007 school year.

Floor Amendment No. 8

Amend **CSSB 1031** (House committee printing) as follows:

(1) In SECTION 9 of the bill, in amended Section 39.025(a), Education Code (page 9, lines 20 and 21), strike "on the end-of-course [~~secondary exit level~~] assessment instruments for the following courses" and substitute "in the following courses [~~on the end-of-course assessment instruments for~~]".

(2) In SECTION 9 of the bill, in amended Section 39.025(a-2), Education Code (page 10, line 10), strike "to be used to satisfy" and substitute "to be used toward satisfaction of".

(3) In SECTION 9 of the bill, in amended Section 39.025(b), Education Code (page 10, line 14), strike "on the assessment instrument [~~for that subject area~~]" and substitute "in each necessary course due to a failure to perform satisfactorily on the end-of-course assessment instrument for that course [~~subject area~~]".

(4) In SECTION 9 of the bill, in amended Section 39.025(c), Education Code (page 10, lines 18 and 19), strike "on each necessary end-of-course [~~secondary exit level~~] assessment instrument" and substitute "in each necessary course [~~on each secondary exit level assessment instrument~~]".

Floor Amendment No. 9

Amend amendment number ___ by Phillips to **CSSB 1031** by adding the following appropriately numbered item to the amendment and renumbering the subsequent items of the amendment accordingly:

() In SECTION 9 of the bill, in amended Section 39.025, Education Code (page 10, between lines 10 and 11), insert the following:

(a-3) Notwithstanding Section 39.023(c), a student's performance on an end-of-course assessment instrument for a course listed in Subsection (a) in which the student is required to perform satisfactorily in order to receive a high school diploma accounts for 25 percent of the student's final grade for the course.

Floor Amendment No. 10

Amend **CSSB 1031** as follows:

(1) On page 1, between lines 4 and 5, insert the following appropriately numbered SECTION to the bill:

SECTION _____. Subchapter B, Chapter 7, Education Code, is amended by adding Section 7.032 to read as follows:

Sec. 7.032. SUMMARY REPORT ON PUBLIC EDUCATION ACCOUNTABILITY MANDATES. (a) In this section, "public education accountability mandate" means an accountability requirement established by federal or state law.

(b) The agency shall prepare a summary report that:

(1) identifies each public education accountability mandate that applies in this state; and

(2) references the federal or state law authorizing the mandate.

(c) The agency shall:

(1) make the summary report produced under this section available as an electronic document on the agency's Internet website; and

(2) update the electronic document periodically to include any additions or changes to the summary report.

(d) Not later than December 1, 2008, the agency shall deliver in an electronic format a copy of the summary report produced under this section to the governor, lieutenant governor, speaker of the house, and presiding officers of the standing committees of each house of the legislature with primary jurisdiction over public education. The summary report provided under this subsection must include the following additional information relating to public education accountability mandates:

(1) whether a mandate imposed by federal law duplicates all or part of a mandate imposed by state law; and

(2) whether any conflict exists between a mandate imposed by federal law and a mandate imposed by state law.

(e) Subsection (d) and this subsection expire January 15, 2009.

(2) Renumber subsequent SECTIONS of the bill accordingly.

Floor Amendment No. 11

Amend **CSSB 1031** by adding the following appropriately numbered SECTION and renumbering the subsequent SECTIONS accordingly:

SECTION _____. Section 28.0211, Education Code, is amended by amending Subsections (a), (c), and (f) and adding Subsections (c-1), (c-2), (c-3), (c-4), and (p) to read as follows:

(a) Except as provided by Subsection (c-3) [~~(b) or (c)~~], a student may not be promoted to:

(1) the fourth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the third grade reading assessment instrument under Section 39.023;

(2) the sixth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the fifth grade mathematics and reading assessment instruments under Section 39.023; or

(3) the ninth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the eighth grade mathematics and reading assessment instruments under Section 39.023.

(c) The first ~~Each~~ time a student fails to perform satisfactorily on an assessment instrument specified under Subsection (a), the school district in which the student attends school shall provide the student with an opportunity to take the assessment instrument a second time. Before administering the assessment instrument to the student a second time, the district shall establish a grade placement committee to prescribe ~~to~~ the ~~student~~ accelerated instruction that must be provided by the district to the student in the applicable subject area, including reading instruction for a student who fails to perform satisfactorily on a reading assessment instrument, and establish an educational plan for the student. The educational plan must be designed to enable the student to perform at the appropriate grade level by the conclusion of the school year. An accelerated instruction group administered by a school district under this section may not have a ratio of more than 10 students for each teacher.

(c-1) The grade placement committee established under Subsection (c) shall be composed of the principal or the principal's designee, the student's parent or guardian, and the teacher of the subject of an assessment instrument on which the student failed to perform satisfactorily. The district shall notify the parent or guardian of the time and place for convening the grade placement committee and the purpose of the committee.

(c-2) In addition to providing accelerated instruction to a student and establishing an educational plan for a student under Subsection (c), the district shall notify the student's parent or guardian of:

(1) the student's failure to perform satisfactorily on the assessment instrument;

(2) the accelerated instruction program to which the student is assigned;

(3) the educational plan developed for the student;

(4) the opportunity for the student to take the assessment instrument a second time; and

(5) the possibility that the student might be retained at the same grade level for the next school year if the student fails to perform satisfactorily after taking the assessment instrument a second time.

(c-3) If ~~After~~ a student fails to perform satisfactorily on an assessment instrument a second time, the ~~a~~ grade placement committee shall determine whether the student should be promoted. The grade placement committee may promote the student if the committee determines that the student has demonstrated an overall competency in the essential knowledge and skills of the student's grade level. If the grade placement committee determines that the student should not be promoted, the grade placement committee shall provide the student with an opportunity to take the

~~assessment instrument a third time. If the student's parent or guardian declines the opportunity for the student to take the assessment instrument a third time or if the student takes the assessment instrument a third time and fails to perform satisfactorily on the assessment instrument, the student may not be promoted to the next grade level unless the grade placement committee determines that the student has demonstrated an overall competency in the essential knowledge and skills of the student's grade level. A student may not be retained on the basis of the grade placement committee's decision under this subsection unless that decision is unanimous. The commissioner by rule shall establish a time line for making the placement determination. This subsection does not create a property interest in promotion [be established to prescribe the accelerated instruction the district shall provide to the student before the student is administered the assessment instrument the third time. The grade placement committee shall be composed of the principal or the principal's designee, the student's parent or guardian, and the teacher of the subject of an assessment instrument on which the student failed to perform satisfactorily. The district shall notify the parent or guardian of the time and place for convening the grade placement committee and the purpose of the committee. An accelerated instruction group administered by a school district under this section may not have a ratio of more than 10 students for each teacher].~~

(c-4) In determining whether a student has demonstrated an overall competency in the essential knowledge and skills of the student's grade level under Subsection (c-3) the grade placement committee shall consider:

(1) evidence of the student's satisfactory performance, including grades, portfolios, work samples, local assessments, and individual reading and mathematics diagnostic tests or inventories;

(2) the student's grades in language arts, mathematics, science, and social studies for the grade level from which the student seeks promotion;

(3) the student's performance on the individual assessment instruments administered to the student under Section 39.023;

(4) the student's total scores on the assessment instrument or instruments specified by Subsection (a); and

(5) extenuating circumstances that have adversely affected the student's participation in the required assessments.

(f) A school district shall provide to a student who, after two [three] attempts, has failed to perform satisfactorily on an assessment instrument specified under Subsection (a) accelerated instruction during the next school year as prescribed by the [an] educational plan developed for the student by the student's grade placement committee [established] under Subsection (c). The district shall provide that accelerated instruction regardless of whether the student has been promoted or retained. [The educational plan must be designed to enable the student to perform at the appropriate grade level by the conclusion of the school year.] During the school year, the student shall be monitored to ensure that the student is progressing in accordance with the educational plan developed for the student under Subsection (c). The district shall administer to the student the assessment instrument for the grade level in which the student is placed at the time the district regularly administers the assessment instruments for that school year.

(p) If at any point during the school year a teacher determines that a student who is required to take an assessment instrument specified under Subsection (a) is not performing at grade level, the teacher shall notify the student's parent or guardian in writing and by telephone and request a conference with the parent or guardian. The teacher must request the conference not later than the 30th day before the first day on which the assessment instrument specified under Subsection (a) is administered to the student.

SECTION _____. Sections 28.0211(b), (d), and (e), Education Code, are repealed.

Floor Amendment No. 1 on Third Reading

Amend **CSSB 1031** on third reading by adding the following new SECTION, appropriately numbered, and renumbering the subsequent SECTIONS accordingly:

SECTION _____. Section 39.024, Education Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) A school district shall offer courses or tutoring to each student who fails to achieve the college readiness standard established under Section 39.0233(c) to help the student achieve that standard.

The amendments were read.

Senator Shapiro moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1031** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Shapiro, Chair; Janek, West, Seliger, and Williams.

SENATE BILL 1993 WITH HOUSE AMENDMENT

Senator Nichols called **SB 1993** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Amend the Senate engrossed version of **SB 1993** as follows:

1. On page 1, line 10, strike "or more".

2. On page 1, line 14, strike "53.030-53.041, Water Code." and substitute in lieu thereof:

"53.030 through 53.041, Water Code."

3. On page 1, strike lines 23 and 24 in their entirety and substitute in lieu thereof:

"the Lake View Management and Development District taken before April 1, 2007, are validated, ratified, and confirmed".

The amendment was read.

Senator Nichols moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1993** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Nichols, Chair; Patrick, Brimer, Watson, and Uresti.

SENATE BILL 82 WITH HOUSE AMENDMENTS

Senator Van de Putte called **SB 82** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 82** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to safety regulations for certain public school extracurricular activities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 33, Education Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. SAFETY REGULATIONS FOR CERTAIN EXTRACURRICULAR ACTIVITIES

Sec. 33.201. APPLICABILITY. This subchapter applies to each public school in this state and to any other school in this state subject to University Interscholastic League rules.

Sec. 33.202. SAFETY TRAINING REQUIRED. (a) The commissioner by rule shall develop and adopt an extracurricular activity safety training program as provided by this section. In developing the program, the commissioner may use materials available from the American Red Cross, Emergency Medical Systems (EMS), or another appropriate entity.

(b) The following persons must satisfactorily complete the safety training program:

(1) a coach, trainer, or sponsor for an extracurricular athletic activity;
(2) except as provided by Subsection (f), a physician who is employed by a school or school district or who volunteers to assist with an extracurricular athletic activity; and

(3) a director responsible for a school marching band.

(c) The safety training program must include:

(1) certification of participants by the American Red Cross, the American Heart Association, or a similar organization or the University Interscholastic League, as determined by the commissioner;

(2) current training in:

(A) emergency action planning;

(B) cardiopulmonary resuscitation if the person is not required to obtain certification under Section 33.086;

(C) communicating effectively with 9-1-1 emergency service operators and other emergency personnel; and

(D) recognizing symptoms of potentially catastrophic injuries, including head and neck injuries, concussions, injuries related to second impact syndrome, asthma attacks, heatstroke, cardiac arrest, and injuries requiring use of a defibrillator; and

(3) at least once each school year, a safety drill that incorporates the training described by Subdivision (2) and simulates various injuries described by Subdivision (2)(D).

(d) A school district shall provide training to students participating in an extracurricular athletic activity related to:

(1) recognizing the symptoms of injuries described by Subsection (c)(2)(D); and

(2) the risks of using dietary supplements designed to enhance or marketed as enhancing athletic performance.

(e) The safety training program and the training under Subsection (d) may each be conducted by a school or school district or by an organization described by Subsection (c)(1).

(f) A physician who is employed by a school or school district or who volunteers to assist with an extracurricular athletic activity is not required to complete the safety training program if the physician attends a continuing medical education course that specifically addresses emergency medicine.

Sec. 33.203. COMPLETION OF UNIVERSITY INTERSCHOLASTIC LEAGUE FORMS. (a) Each student participating in an extracurricular athletic activity must complete the University Interscholastic League forms entitled "Preparticipation Physical Evaluation–Medical History" and "Acknowledgment of Rules." Each form must be signed by both the student and the student's parent or guardian.

(b) Each form specified by Subsection (a) must clearly state that failure to accurately and truthfully answer all questions on a form required by statute or by the University Interscholastic League as a condition for participation in an extracurricular athletic activity subjects a signer of the form to penalties determined by the University Interscholastic League.

(c) The "Preparticipation Physical Evaluation–Medical History" form must contain the following statement:

"An individual answering in the affirmative to any question relating to a possible cardiovascular health issue, as identified on the form, should be restricted from further participation until the individual is examined and cleared by a physician, physician assistant, chiropractor, or nurse

practitioner. Ultimately, the individual may need to be evaluated by a cardiologist and/or undergo cardiac testing (including an echocardiogram and/or other heart-related examination) based on the assessment by the primary care provider."

Sec. 33.204. CERTAIN UNSAFE ATHLETIC ACTIVITIES PROHIBITED. A coach, trainer, or sponsor for an extracurricular athletic activity may not encourage or permit a student participating in the activity to engage in any unreasonably dangerous athletic technique that unnecessarily endangers the health of a student, including using a helmet or any other sports equipment as a weapon.

Sec. 33.205. CERTAIN SAFETY PRECAUTIONS REQUIRED. (a) A coach, trainer, or sponsor for an extracurricular athletic activity shall at each athletic practice or competition ensure that:

(1) each student participating in the activity is adequately hydrated;
(2) any prescribed asthma medication for a student participating in the activity is readily available to the student;

(3) emergency lanes providing access to the practice or competition area are open and clear; and

(4) heatstroke prevention materials are readily available.

(b) If a student participating in an extracurricular athletic activity, including a practice or competition, becomes unconscious during the activity, the student may not:

(1) return to the practice or competition during which the student became unconscious; or

(2) participate in any extracurricular athletic activity until the student receives written authorization for such participation from a physician.

Sec. 33.206. COMPLIANCE; ENFORCEMENT. (a) In accordance with Chapter 552, Government Code, a school shall make available to the public proof of compliance for each person enrolled in, employed by, or volunteering for the school who is required to receive safety training described by Section 33.202.

(b) The superintendent of a school district or the director of a school subject to this subchapter shall maintain complete and accurate records of the district's or school's compliance with Section 33.202.

(c) A school campus that is determined by the school's superintendent or director to be out of compliance with Section 33.202, 33.204, or 33.205 with regard to University Interscholastic League activities shall be subject to the range of penalties determined by the University Interscholastic League.

Sec. 33.207. CONTACT INFORMATION. (a) The commissioner shall maintain an existing telephone number and an electronic mail address to allow a person to report a violation of this subchapter.

(b) Each school that offers an extracurricular athletic activity shall prominently display at the administrative offices of the school the telephone number and electronic mail address maintained under Subsection (a).

Sec. 33.208. NOTICE REQUIRED. (a) A school that offers an extracurricular athletic activity shall provide to each student participating in an extracurricular athletic activity and to the student's parent or guardian a copy of the text of Sections 33.201-33.207 and a copy of the University Interscholastic League's parent information manual.

(b) A document required to be provided under this section may be provided in an electronic format unless otherwise requested by a student, parent, or guardian.

Sec. 33.209. INCORPORATION OF SAFETY REGULATIONS. The University Interscholastic League shall incorporate the provisions of Sections 33.203-33.207 into the league's constitution and contest rules.

Sec. 33.210. IMMUNITY FROM LIABILITY. This subchapter does not waive any liability or immunity of a school district or its officers or employees. This subchapter does not create any liability for or a cause of action against a school district or its officers or employees.

Sec. 33.211. LIMITATION ON LIABILITY. A person who volunteers to assist with an extracurricular activity is not liable for civil damages arising out of an act or omission relating to the requirements under Section 33.205 unless the act or omission is willfully or wantonly negligent.

SECTION 2. Subchapter F, Chapter 33, Education Code, as added by this Act, applies beginning with the 2008-2009 school year.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

Floor Amendment No. 1

Amend **CSSB 82** in SECTION 1 of the bill, in added Section 33.203(c), Education Code (page 3, line 21 through page 4, line 6), by striking Subsection (c) and substituting the following:

(c) The Texas Medical Board shall adopt a form to be used as the "Preparticipation Physical Evaluation–Medical History" form.

Floor Amendment No. 1 on Third Reading

Amend Floor Amendment No. 1 to **CSSB 82** on third reading by striking proposed subsection (c), (lines 5-7).

The amendments were read.

Senator Van de Putte moved to concur in the House amendments to **SB 82**.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

SENATE RULE 11.13 SUSPENDED (Consideration of Bills in Committees)

On motion of Senator Averitt and by unanimous consent, Senate Rule 11.13 was suspended to grant all committees permission to meet while the Senate was meeting today.

COMMITTEE SUBSTITUTE HOUSE BILL 120 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 120** at this time on its second reading:

CSHB 120, Relating to state funding and designated tuition charged for courses provided during off-peak hours at certain public institutions of higher education.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Carona, Gallegos.

**COMMITTEE SUBSTITUTE
HOUSE BILL 120 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 120** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator Wentworth and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Jurisprudence might meet and consider **HB 3197** today.

HOUSE BILL 1521 ON SECOND READING

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1521** at this time on its second reading:

HB 1521, Relating to the prohibition of signs on certain roads.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1521** (Senate committee printing) as follows:

- 1) On page 2, line 8 between "whom" and "notice" strike "a"
- 2) On page 2, lines 8-9 strike "mailed by the county clerk" and substitute "given"
- 3) On page 2, line 10 after "of" strike "Section 1 of this Act" and substitute "Section 391.252(a)(19), Transportation Code, as added by this act"
- 4) On page 2, line 13 after "of" strike "Section 1 of this Act," and substitute "Section 391.252(a)(19), Transportation Code, as added by this act,"
- 5) On page 2, line 19 after "of" strike "Section 1 of this Act" and substitute "Section 391.252(a)(19), Transportation Code, as added by this act"

6) On page 2, line 24 after "Before" strike "Section 1 of this Act" and substitute "Section 391.252(a)(19), Transportation Code, as added by this act"

7) On page 2, lines 24-29 after "effective," strike "the county clerk of the county or counties in which a segment of public road affected by this Act is located must send a written notice, by certified mail, to each landowner who owns real property, according to the most recent certified tax appraisal roll, along a segment of public road affected by this Act. The" and substitute "the"

8) On page 2, line 29 between "shall" and "be" strike "also"

9) On page 2, line 38 after "be" strike "sent to landowners and"

10) On page 2, line 55 after "(c)" strike "Section 1 of this Act" and substitute "Section 391.252(a)(19), Transportation Code, as added by this act"

The amendment to **HB 1521** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Carona, Gallegos.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 1521** as follows:

(1) On page 2 line 1, strike "or"

(2) On page 2 line 7, strike the period and insert "or (20) State Highway 71 between the western city limits of the city of Austin and State Highway 16."

(3) Add an appropriately numbered SECTION to read as follows:

SECTION ____ The provisions of SECTION 2 do not apply to Section 391.252(l)(20).

(4) Renumber the remaining SECTIONS accordingly.

The amendment to **HB 1521** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Carona, Gallegos.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 1521** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS as appropriate:

SECTION ____ Subtitle H, Title 6, Transportation Code, is amended by adding Chapter 398 to read as follows:

CHAPTER 398. PROVISIONS GENERALLY APPLICABLE TO OUTDOOR SIGNS

Sec. 398.001. DEFINITION. In this chapter, "off-premise sign" means an outdoor sign displaying advertising that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located.

Sec. 398.002. RIGHTS OF OWNER OF CERTAIN SIGNS. The rights associated with an off-premise sign that is lawfully in existence but no longer complies with current applicable laws and regulations, including laws and regulations promulgated under Chapters 391 and 394 of this code, and Chapter 216, Local Government Code, vest in the owner of the off-premise sign. This section does not abrogate or otherwise affect the property rights of a party in an eminent domain proceeding.

The amendment to **HB 1521** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent-excused: Carona, Gallegos.

On motion of Senator Hegar and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1521 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Carona, Gallegos.

HOUSE BILL 1521 ON THIRD READING

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1521** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 3367 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3367** at this time on its second reading:

CSHB 3367, Relating to the change in municipal boundaries by agreement between certain municipalities.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Carona, Gallegos.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3367 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3367** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

SENATE BILL 811 WITH HOUSE AMENDMENTS

Senator Janek called **SB 811** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer, Senator Brimer in Chair, laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend **SB 811** (House committee printing) by striking added Subdivisions (1) and (2), Subsection (b), Section 161.0102, Health and Safety Code (page 1, lines 14 through 24), and substituting the following:

(1) select influenza vaccines from the list of all influenza vaccines that:

(A) are approved by the United States Food and Drug Administration and recommended by the federal Advisory Committee on Immunization Practices; and

(B) are either:

(i) within the limits of the vaccines annually allocated by the Centers for Disease Control and Prevention of the United States Public Health Service to the department for the vaccines for children program; or

(ii) not offered in the annual allocation under Subparagraph (i), but are available from the Centers for Disease Control and Prevention of the United States Public Health Service and for which the Centers for Disease Control and Prevention awards to the department additional funds; and

(2) use both inactivated influenza vaccines and live, attenuated influenza vaccines.

Floor Amendment No. 2

Amend the engrossed version of **SB 811** by adding the appropriately numbered section.

SECTION _____. Subchapter A, Chapter 161, Health and Safety Code, is amended by adding Section 161.0103 to read as follows:

Sec. 161.0103. VACCINES FOR CHILDREN PROGRAM. (a) In this section:

(1) "Vaccines for children program" means the program operated by the department under authority of 42 U.S.C. Section 1396s.

(2) "Equivalent vaccines" means two or more vaccines, excluding the influenza vaccine, that protect a recipient of a vaccine against the same infection or infections, that requires the same number of doses, and that have similar safety and efficacy profiles and which are recommended for comparable populations.

(b) Except as provided by Subsection (d), where two or more manufacturers produce equivalent vaccines, the department shall procure an equal supply of the vaccine from each manufacturer.

(c) An equivalent vaccine must be:

(1) approved by the United States Food and Drug Administration;

(2) recommended by the federal Advisory Committee on Immunization Practices; and

(3) made available to the department by the Centers for Disease Control and Prevention of the United States Public Health Service.

(d) The department shall procure an equal supply of each equivalent vaccine under Subsection (b) only if the cost to the department of providing each equivalent vaccine is not more than 110 percent of the lowest priced equivalent vaccine.

Floor Amendment No. 1 on Third Reading

Amend **SB 811** on third reading by striking the SECTION of the bill providing the effective date (SECTION 2 of the House committee printing, page 2, line 1) and substituting the following:

SECTION _____. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

The amendments were read.

Senator Janek moved to concur in the House amendments to **SB 811**.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

SENATE BILL 64 WITH HOUSE AMENDMENT

Senator Zaffirini called **SB 64** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 64** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to the reporting of political contributions accepted or political expenditures made near an election; providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 254.039, Election Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (a-2) to read as follows:

(a) In addition to other reports required by this chapter, a general-purpose committee shall file additional reports during the period beginning the ninth day before election day and ending at 12 noon on the day before election day if the committee:

(1) accepts political contributions from a person that in the aggregate exceed \$5,000 during that reporting period; or

(2) ~~that~~ makes direct campaign expenditures supporting or opposing either a single candidate that in the aggregate exceed \$1,000 or a group of candidates that in the aggregate exceed \$15,000 during that reporting ~~the~~ period.

(a-1) A report under this section shall be filed ~~beginning the ninth day before election day and ending at 12 noon on the second day before election day shall file a report~~ electronically, by telegram or telephonic facsimile machine, or by hand, in the form required by Section 254.036. The commission must receive a ~~the~~ report under this section not later than 5 p.m. of the first business day ~~48 hours~~ after the date the contribution is accepted or the expenditure is made. A report under this section is not required to be accompanied by the affidavit required under Section 254.036(h) or to be submitted on a form prescribed by the commission. A report under this section that complies with Section 254.036(a) must be accompanied by an affidavit under Section 254.036(c)(1) unless the committee has submitted an affidavit under Section 254.036(c)(1) with another report filed in connection with the election for which a report is required under this section.

(a-2) Each report required by Subsection (a)(1) must include the amount of the contributions specified by that subsection, the full name and address of the person making the contributions, and the dates of the contributions.

(b) Each report required by Subsection (a)(2) ~~this section~~ must include the amount of the expenditures, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures.

SECTION 2. Subsection (a), Section 254.042, Election Code, is amended to read as follows:

(a) The commission shall determine from any available evidence whether a report ~~other than a telegram report under Section 254.038 or 254.039,~~ required to be filed with the commission under this chapter is late. On making that determination, the commission shall immediately mail a notice of the determination to the person required to file the report.

SECTION 3. (a) Section 254.039, Election Code, as amended by this Act, applies only to the reporting of a political contribution accepted on or after September 1, 2007. For purposes of Section 254.039, Election Code, as amended by this Act, a political contribution accepted before September 1, 2007, is not aggregated with a political contribution accepted on or after that date. The reporting of a political contribution accepted before September 1, 2007, is governed by the law in effect on the date the contribution was accepted, and the former law is continued in effect for that purpose.

(b) Subsection (a), Section 254.042, Election Code, as amended by this Act, applies only to a report under Chapter 254, Election Code, that is required to be filed on or after the effective date of this Act. A report under Chapter 254, Election Code,

that is required to be filed before the effective date of this Act is governed by the law in effect on the date the report is required to be filed, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2007.

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **SB 64**.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

HOUSE BILL 387 ON SECOND READING

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 387** at this time on its second reading:

HB 387, Relating to the repeal of the law relating to the Texas National Research Laboratory Commission.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Carona, Gallegos.

HOUSE BILL 387 ON THIRD READING

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 387** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE

HOUSE BILL 3928 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3928** be placed on its third reading and final passage:

CSHB 3928, Relating to technical changes to the revised franchise tax.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Janek.

Absent-excused: Carona, Gallegos.

The bill was read third time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **CSHB 3928** on third reading in added Subsection (d), Section 171.103, Tax Code, as added by Amendment No. 1 by Ogden on second reading (page 3, lines 7-11 of the amendment), by striking the last sentence of that subsection and substituting "The comptroller shall adopt rules as necessary to enforce the reporting requirement prescribed by Subsection (c)."

The amendment to **CSHB 3928** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 on Third Reading except as follows:

Absent-excused: Carona, Gallegos.

On motion of Senator Ogden and by unanimous consent, the caption was again amended to conform to the body of the bill as amended.

CSHB 3928 as again amended was finally passed by the following vote: Yeas 28, Nays 1.

Nays: Janek.

Absent-excused: Carona, Gallegos.

HOUSE BILL 1297 ON SECOND READING

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1297** at this time on its second reading:

HB 1297, Relating to the creation of the state employee wellness program.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1297** (Senate committee report) as follows:

(1) In SECTION 4 of the bill, strike added Section 664.051, Government Code (page 1, lines 28 through 38), and substitute the following:

Sec. 664.051. DEFINITIONS. In this subchapter:

(1) "Board" means the Worksite Wellness Advisory Board.

(2) "Department" means the Department of State Health Services.

(3) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(4) "State agency" means a department, institution, commission, or other agency that is in the executive, judicial, or legislative branch of state government.

(5) "State employee" means a state employee who participates in a health benefits program administered under Chapter 1551, Insurance Code.

(2) In SECTION 4 of the bill, in added Section 664.052, Government Code (page 1, line 40), between "subchapter" and the period, insert ", including rules prescribing the frequency and location of board meetings".

(3) In SECTION 4 of the bill, strike added Subsection (b), Section 664.053, Government Code (page 2, lines 4 through 9), and substitute the following:

(b) The statewide wellness coordinator shall:

(1) coordinate with other agencies that administer a health benefits program under Chapter 1551, Insurance Code, as necessary to develop the model wellness program, prevent duplication of efforts, provide information and resources to employees, and encourage the use of wellness benefits included in the health benefits program;

(2) maintain a set of Internet links to health resources for use by state employees;

(3) design an outreach campaign to educate state employees about health and fitness-related resources, including available exercise facilities, online tools, and health and fitness-related organizations;

(4) study the implementation and participation rates of state agency worksite wellness programs and report the findings to the legislature biennially; and

(5) organize an annual conference hosted by the department for all state agency wellness councils.

(4) In SECTION 4 of the bill, following added Section 664.053, Government Code (page 2, between lines 26 and 27), insert the following:

Sec. 664.054. WORKSITE WELLNESS ADVISORY BOARD; COMPOSITION. (a) The board consists of the following 13 members appointed by the executive commissioner:

(1) five state agency employees, including one employee of each of the following agencies:

(A) Department of Agriculture;

(B) Texas Education Agency;

(C) Texas Department of Transportation;

(D) Texas Department of Criminal Justice; and

(E) the department;

(2) one other employee of the department who is involved in worksite wellness efforts at the department;

(3) one employee of the Employees Retirement System of Texas;

(4) two state employee representatives of an eligible state employee organization described by Section 403.0165 with at least 10,000 active, dues-paying members;

(5) one worksite wellness professional;

(6) one representative of the American Cancer Society;

(7) one representative of the American Heart Association; and

(8) one representative of the Texas Medical Association.

(b) In appointing members to the board, the executive commissioner shall:

(1) make an effort to appoint at least one member from each of the health and human services regions; and

(2) consider input received from state agency employees.

(c) The members of the board shall elect a presiding officer.

(d) Each member of the board who is not a state officer or employee serves a two-year term expiring February 1 of each odd-numbered year and may be reappointed. Each member of the board who is a state officer or employee serves on the board at the pleasure of the executive commissioner.

(e) If a vacancy occurs, the executive commissioner shall appoint a person to fill the vacancy.

(f) A state officer or employee appointed to the board serves on the board ex officio as an additional duty of the member's office or employment.

Sec. 664.055. REIMBURSEMENT. A member of the board may not receive compensation for service as a board member but is entitled to reimbursement of the member's travel expenses:

(1) under the rules for reimbursement that apply to the member's office or employment, if the member is a state officer or employee; or

(2) as provided by the General Appropriations Act, if the member is not a state officer or employee.

Sec. 664.056. ADMINISTRATION. The board is administratively attached to the department. The department shall provide the staff necessary for the board to perform its duties.

Sec. 664.057. APPLICABILITY OF OTHER LAW. Chapter 2110 does not apply to the size, composition, or duration of the board.

Sec. 664.058. DONATIONS. The board may receive in-kind and monetary gifts, grants, and donations from public and private donors to be used for the purposes of this subchapter.

Sec. 664.059. DUTIES. The board shall advise the department, executive commissioner, and statewide wellness coordinator on worksite wellness issues, including:

(1) funding and resource development for worksite wellness programs;

(2) identifying food service vendors that successfully market healthy foods;

(3) best practices for worksite wellness used by the private sector; and

(4) worksite wellness features and architecture for new state buildings based

on features and architecture used by the private sector.

Sec. 664.060. STATE AGENCY WELLNESS COUNCILS. (a) A state agency may facilitate the development of a wellness council composed of employees and managers of the agency to promote worksite wellness in the agency.

(b) A wellness council may work to:

(1) increase employee interest in worksite wellness;

(2) develop and implement policies to improve agency infrastructure to allow for increased worksite wellness; and

(3) involve employees in worksite wellness programs.

(c) Members of a wellness council may review the recommendations of the board and develop a plan to implement the recommendations.

(d) A state agency may allow its employees to participate in wellness council activities for two or more hours each month.

(e) The department shall provide technical support to each state agency wellness council and shall provide financial support to councils if funds are available.

(f) A wellness council may annually identify best practices for worksite wellness in the agency and report the practices to the board.

Sec. 664.061. AGENCY WELLNESS POLICIES. A state agency may:

(1) allow each employee 30 minutes during normal working hours for exercise three times each week;

(2) allow all employees to attend on-site wellness seminars when offered;
and

(3) provide eight hours of additional leave time each year to an employee
who:

(A) receives a physical examination; and

(B) completes either an online health risk assessment tool provided by the board or a similar health risk assessment conducted in person by a worksite wellness coordinator.

(5) Add the following appropriately numbered SECTION to the bill and renumber existing SECTIONS accordingly:

SECTION ____. Section 664.006, Government Code, is repealed.

The amendment to **HB 1297** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Carona, Gallegos.

On motion of Senator Nelson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1297 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Carona, Gallegos.

HOUSE BILL 1297 ON THIRD READING

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1297** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

SENATE BILL 993 WITH HOUSE AMENDMENTS

Senator Nelson called **SB 993** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend **SB 993** (engrossed version) as follows:

(1) In the recital to SECTION 5 of the bill (page 3, line 17) strike "(b) and (e)" and substitute "(b), (e), and (f)".

(2) In SECTION 5 of the bill, following amended Subsection (e), Section 301.402, Occupations Code (page 4, between lines 7 and 8), insert the following:

(f) A person may not suspend or terminate the employment of, or otherwise discipline or discriminate against, a person who reports, without malice, under this section. A violation of this subsection is subject to Section 301.413 [nurse may report to the nurse's employer or another entity at which the nurse is authorized to practice any situation that the nurse has reasonable cause to believe exposes a patient to substantial risk of harm as a result of a failure to provide patient care that conforms to minimum standards of acceptable and prevailing professional practice or to statutory, regulatory, or accreditation standards. For purposes of this subsection, the employer or entity includes an employee or agent of the employer or entity].

(3) Strike SECTION 13 of the bill (page 8, line 23, through page 9, line 5) and substitute the following appropriately numbered SECTION:

SECTION _____. Section 303.005, Occupations Code, is amended by adding Subsections (a-1) and (i) and amending Subsections (b), (d), and (h) to read as follows:

(a-1) For purposes of this section, a nurse or nurse administrator does not act in good faith in connection with a request made or an action taken by the nurse or nurse administrator if there is not a reasonable factual or legal basis for the request or action.

(b) If a person who is required to establish a nursing peer review committee under Section 303.0015 [regularly employs, hires, or otherwise contracts for the services of at least 10 nurses] requests a nurse [one of those nurses] to engage in conduct that the nurse believes violates a nurse's duty to a patient, the nurse may request, on a form developed or approved by the board, a determination by a nursing peer review committee under this chapter of whether the conduct violates a nurse's duty to a patient.

(d) If a nurse requests a peer review determination under Subsection (b) and refuses to engage in the requested conduct pending the peer review, the determination [The determinations] of the peer review committee shall be considered in any [a] decision by the nurse's employer to discipline the nurse for the refusal to engage in the requested conduct, but the determination is [determinations are] not binding if a nurse administrator believes in good faith that the peer review committee has incorrectly determined a nurse's duty. This subsection does not affect the protections provided by Subsection (c)(1) or Section 301.352.

(h) A person may not suspend or terminate the employment of, or otherwise discipline or discriminate against, a nurse who in good faith requests a peer review determination under this section or a person who advises a nurse of the nurse's right to request a determination or of the procedures for requesting a determination. A violation of this subsection is subject to Section 301.413 [A person is not required to provide a peer review determination under this section for a request made by a registered nurse, unless the person regularly employs, hires, or otherwise contracts for the services of at least five registered nurses].

(i) A person who is required to provide, on request, a nursing peer review committee determination under Subsection (b) shall adopt and implement a policy to inform nurses of the right to request a nursing peer review committee determination and the procedure for making a request.

(4) In Subdivision (3), SECTION 16 of the bill (page 10, line 19), strike "Subsection (a)" and substitute "Subsections (a) and (c)".

(5) Strike SECTION 18 of the bill and substitute the following appropriately numbered SECTION:

SECTION _____. This Act takes effect September 1, 2007.

(6) Add the following appropriately numbered SECTIONS to the bill:

SECTION _____. Section 301.352, Occupations Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (f) to read as follows:

(a) A person may not suspend, terminate, or otherwise discipline or discriminate against a nurse who refuses to engage in an act or omission as provided by Subsection (a-1).

(a-1) A nurse may refuse to engage in an act or omission relating to patient care that would constitute grounds for reporting the nurse to the board under Subchapter I, that constitutes a minor incident, or that violates this chapter or a board rule if the nurse notifies the person at the time of the refusal that the reason for refusing is that the act or omission:

- (1) constitutes grounds for reporting the nurse to the board; or
- (2) is a violation of this chapter or a rule of the board.

(f) A violation of this section is subject to Section 301.413.

SECTION _____. The heading to Section 301.402, Occupations Code, is amended to read as follows:

Sec. 301.402. MANDATORY REPORT BY NURSE [~~DUTY OF NURSE TO REPORT~~].

SECTION _____. Subchapter I, Chapter 301, Occupations Code, is amended by adding Section 301.4025 to read as follows:

Sec. 301.4025. OPTIONAL REPORT BY NURSE. (a) In a written, signed report to the appropriate licensing board or accrediting body, a nurse may report a licensed health care practitioner, agency, or facility that the nurse has reasonable cause to believe has exposed a patient to substantial risk of harm as a result of failing to provide patient care that conforms to:

- (1) minimum standards of acceptable and prevailing professional practice, for a report made regarding a practitioner; or
- (2) statutory, regulatory, or accreditation standards, for a report made regarding an agency or facility.

(b) A nurse may report to the nurse's employer or another entity at which the nurse is authorized to practice any situation that the nurse has reasonable cause to believe exposes a patient to substantial risk of harm as a result of a failure to provide patient care that conforms to minimum standards of acceptable and prevailing professional practice or to statutory, regulatory, or accreditation standards. For purposes of this subsection, an employer or entity includes an employee or agent of the employer or entity.

(c) A person may not suspend or terminate the employment of, or otherwise discipline or discriminate against, a person who reports, without malice, under this section. A violation of this subsection is subject to Section 301.413.

SECTION _____. Subsections (a), (b), (c), and (e), Section 301.413, Occupations Code, are amended to read as follows:

(a) A person named as a defendant in a civil action or subjected to other retaliatory action as a result of filing a report required, authorized, or reasonably believed to be required or authorized under this subchapter as a result of refusing to engage in conduct as authorized by Section 301.352, or as a result of requesting in good faith a nursing peer review determination under Section 303.005, may file a counterclaim in the pending action or prove a cause of action in a subsequent suit to recover defense costs, including reasonable attorney's fees and actual and punitive damages, if the suit or retaliatory action is determined to be frivolous, unreasonable, or taken in bad faith.

(b) A person may not suspend or terminate the employment of, or otherwise discipline or discriminate against, a person who:

(1) reports, without malice, under this subchapter; or

(2) requests, in good faith, a nursing peer review determination under

Section 303.005.

(c) A person who reports under this subchapter, refuses to engage in conduct as authorized by Section 301.352, or requests a nursing peer review determination under Section 303.005 has a cause of action against a person who violates Subsection (b), and may recover:

(1) the greater of:

(A) actual damages, including damages for mental anguish even if no other injury is shown; or

(B) \$5,000 [~~\$1,000~~];

(2) exemplary damages;

(3) court costs; and

(4) reasonable attorney's fees.

(e) A person who brings an action under this section has the burden of proof. It is a rebuttable presumption that the person's employment was suspended or terminated for reporting under this subchapter, for refusing to engage in conduct as authorized by Section 301.352, or for requesting a peer review committee determination under Section 303.005 if:

(1) the person was suspended or terminated within 60 days after the date the report, refusal, or request was made; and

(2) the board or a court determines that:

(A) the report that is the subject of the cause of action was:

(i) [~~(A)~~] authorized or required under Section 301.402, 301.4025, 301.403, 301.405, 301.406, 301.407, 301.408, 301.409, or 301.410; and

(ii) [~~(B)~~] made without malice;

(B) the request for a peer review committee determination that is the subject of the cause of action was:

(i) authorized under Section 303.005; and

(ii) made in good faith; or

(C) the refusal to engage in conduct was authorized by Section 301.352.

(7) Renumber the SECTIONS of the bill accordingly.

Floor Amendment No. 2

Amend **SB 993** (engrossed version), in SECTION 4 of the bill, in amended Subdivision (3), Section 301.401, Occupations Code (page 2, line 26), between "program" and "approved", by inserting "that is considered".

Floor Amendment No. 3

Amend **SB 993** by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS appropriately:

SECTION _____. Subchapter H, Chapter 301, Occupations Code, is amended by adding Section 301.355 to read as follows:

Sec. 301.355. POLICIES APPLICABLE TO NURSES EMPLOYED BY MEDICAL AND DENTAL UNITS. (a) The president of a medical and dental unit, as defined by Section 61.003, Education Code, shall determine whether a nurse who is employed by the unit for practice in patient care or in clinical activities is a full-time employee for purposes of:

- (1) employees group benefits under Chapter 1551, Insurance Code;
- (2) leave under Chapter 661, Government Code; and
- (3) longevity pay under Section 659.043, Government Code.

(b) A determination under Subsection (a) does not entitle a nurse who works less than 40 hours a week to the full state contribution to the cost of any coverage or benefit. However, from money other than money appropriated from the general revenue fund, the medical and dental unit may contribute to the cost of any coverage or benefit an amount that exceeds the state contribution.

The amendments were read.

Senator Nelson moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 993** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Nelson, Chair; Ellis, Deuell, Janek, and Shapiro.

SENATE RULES SUSPENDED (Posting Rules)

On motion of Senator Lucio and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on International Relations and Trade might meet and consider **HB 3647** today in the Lieutenant Governor's Reception Room.

SENATE BILL 22 WITH HOUSE AMENDMENT

Senator Nelson called **SB 22** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 2 on Third Reading

Amend **SB 22** on third reading by adding the following section to Chapter 32, Human Resources Code and renumbering the Sections accordingly;

SECTION 1. Section 32.061, Human Resources Code, is amended to read as follows:

Sec. 32.061. COMMUNITY ATTENDANT SERVICES PROGRAM. (a) Any home and community-based services that the department provides under Section 1929, Social Security Act (42 U.S.C. Section 1396t) and its subsequent amendments to functionally disabled individuals who have income that exceeds the limit established by federal law for Supplemental Security Income (SSI) (42 U.S.C. Section 1381 et seq.) and its subsequent amendments shall be provided through the community attendant services program.

(b) In determining an applicant's eligibility for home and community-based services described by Subsection (a), the department shall exclude \$20 of unearned or earned income from the applicant's monthly income.

SECTION 2. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

For purposes of this Section only the effective date will be September 1, 2007.

The amendment was read.

Senator Nelson moved to concur in the House amendment to **SB 22**.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1034 ON SECOND READING**

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1034** at this time on its second reading:

CSHB 1034, Relating to the pledge of allegiance to the state flag.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Carona, Gallegos.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1034 ON THIRD READING**

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1034** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

HOUSE BILL 2834 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2834** at this time on its second reading:

HB 2834, Relating to the use of land on the main campus of Texas A&M University in College Station.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Carona, Gallegos.

HOUSE BILL 2834 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2834** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

HOUSE BILL 3410 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3410** at this time on its second reading:

HB 3410, Relating to alternative procedures for plat revision of residential areas by a county.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Carona, Gallegos.

HOUSE BILL 3410 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3410** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

SENATE BILL 1037 WITH HOUSE AMENDMENT

Senator Duncan called **SB 1037** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 1037** (House committee printing) as follows:

(1) In SECTION 1 of the bill, in proposed Subsection (a), Section 26.132, Water Code (page 1, line 8), strike "into which water is placed" and substitute "into which water, including rainwater or storm water runoff, is or has been placed".

(2) In SECTION 1 of the bill, in proposed Subsection (a), Section 26.132, Water Code (page 1, line 10), between "evaporation," and "residual minerals,", insert "brine water or".

(3) In SECTION 1 of the bill, in proposed Subsection (a), Section 26.132, Water Code (page 1, line 11), strike "water." and substitute "water, and for the purpose of storing brine water and minerals."

(4) In SECTION 1 of the bill, in proposed Subsection (b), Section 26.132, Water Code (page 1, at the end of line 13), immediately after "production of", add "brine water,".

(5) In SECTION 1 of the bill, in proposed Subsection (d), Section 26.132, Water Code (page 2, line 3), strike "groundwater" and substitute "groundwater or on-site storm water runoff".

The amendment was read.

Senator Duncan moved to concur in the House amendment to **SB 1037**.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

SENATE BILL 563 WITH HOUSE AMENDMENTS

Senator Ogden called **SB 563** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 563** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to assistance by the attorney general in the prosecution of certain offenses involving the use, unlawful appropriation, or misapplication of state property or unlawful conduct in certain state-funded facilities or on other state property.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 1, Penal Code, is amended by adding Section 1.09 to read as follows:

Sec. 1.09. CONCURRENT JURISDICTION UNDER THIS CODE TO PROSECUTE OFFENSES THAT INVOLVE STATE PROPERTY. With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute under this code any offense an element of which occurs on state property or any offense that involves the use, unlawful appropriation, or misapplication of state property, including state funds.

SECTION 2. Chapter 39, Penal Code, is amended by adding Section 39.015 to read as follows:

Sec. 39.015. CONCURRENT JURISDICTION TO PROSECUTE OFFENSES UNDER THIS CHAPTER. With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this chapter.

SECTION 3. Subsection (b), Section 39.04, Penal Code, is amended to read as follows:

(b) An offense under Subsection (a)(1) is a Class A misdemeanor. An offense under Subsection (a)(2) is a state jail felony, except that the offense is a felony of the third degree if the offense is committed against a juvenile offender detained in or committed to a correctional facility the operation of which is financed primarily with state funds.

SECTION 4. The change in law made by Section 3 of this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

Floor Amendment No. 1 on Third Reading

Amend **CSSB 563**, on third reading, in SECTION 3 of the bill, in amended Subsection (b), Section 39.04, Penal Code (House committee printing, page 2, line 4), by striking "third degree" and substituting "second degree".

The amendments were read.

Senator Ogden moved to concur in the House amendments to **SB 563**.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

HOUSE BILL 2766 ON SECOND READING

On motion of Senator Janek and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2766** at this time on its second reading:

HB 2766, Relating to the location at which certain courts may conduct proceedings following certain disasters.

The bill was read second time.

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2766** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 24.033(b), Government Code (page 1, lines 17 and 18), strike "natural or other major disaster" and substitute "disaster, as defined by Section 418.004,".

(2) In SECTION 1 of the bill, in added Section 24.033(b), Government Code (page 1, lines 20 and 21), between "presiding judge of the administrative judicial region" and "may designate", insert ", with the approval of the judge of the affected district court,".

(3) In SECTION 2 of the bill, in added Section 25.0019(b), Government Code (page 1, line 33) strike "natural or other major disaster" and substitute "disaster, as defined by Section 418.004,".

(4) In SECTION 2 of the bill, in added Section 25.0019(b), Government Code (page 1, lines 36 and 37), between "presiding judge of the administrative judicial region" and "may designate", insert ", with the approval of the judge of the affected statutory county court,".

(5) In SECTION 3 of the bill, in added Section 25.0032(b), Government Code (page 1, line 48), strike "natural or other major disaster" and substitute "disaster, as defined by Section 418.004,".

(6) In SECTION 3 of the bill, in added Section 25.0032(b), Government Code (page 1, lines 51 and 52), between "presiding judge of the statutory probate courts" and "may designate", insert ", with the approval of the judge of the affected statutory probate court,".

(7) In SECTION 4 of the bill, in added Section 26.009(b), Government Code (page 1, line 61), strike "natural or other major disaster" and substitute "disaster, as defined by Section 418.004,".

(8) In SECTION 4 of the bill, in added Section 26.009(b), Government Code (page 1, line 64, through page 2, line 1), between "presiding judge of the

administrative judicial region" and "may designate", insert ", with the approval of the judge of the affected county court,".

The amendment to **HB 2766** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Carona, Gallegos.

On motion of Senator Janek and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2766 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Carona, Gallegos.

HOUSE BILL 2766 ON THIRD READING

Senator Janek moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2766** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 621 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 621** at this time on its second reading:

CSHB 621, Relating to the exemption from ad valorem taxation of tangible personal property held temporarily at a location in this state for assembling, storing, manufacturing, processing, or fabricating purposes.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Carona, Gallegos.

COMMITTEE SUBSTITUTE HOUSE BILL 621 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 621** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**VOTES RECONSIDERED ON
HOUSE BILL 1521**

On motion of Senator Hegar and by unanimous consent, the vote by which **HB 1521** was finally passed was reconsidered:

HB 1521, Relating to the prohibition of signs on certain roads.

Question — Shall **HB 1521** be finally passed?

On motion of Senator Hegar and by unanimous consent, the vote by which **HB 1521** was passed to third reading was reconsidered.

Question — Shall **HB 1521** be passed to third reading?

On motion of Senator Hegar and by unanimous consent, the vote by which Floor Amendment No. 3 was adopted was reconsidered.

Question — Shall Floor Amendment No. 3 to **HB 1521** be adopted?

Senator Lucio withdrew Floor Amendment No. 3.

On motion of Senator Hegar and by unanimous consent, the caption was again amended to conform to the body of the bill as amended.

HB 1521 as amended was again passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Carona, Gallegos.

HOUSE BILL 1521 ON THIRD READING

Senator Hegar again moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1521** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Gallegos.

The bill was read third time and was again passed by the following vote: Yeas 28, Nays 1.

Nays: Lucio.

Absent-excused: Carona, Gallegos.

**SENATE RULE 11.10(a) SUSPENDED
(Public Notice of Committee Meetings)**

On motion of Senator Duncan and by unanimous consent, Senate Rule 11.10(a) was suspended in order that the Committee on State Affairs might meet today.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1270**

Senator Van de Putte submitted the following Conference Committee Report:

Austin, Texas
May 17, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1270** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

VAN DE PUTTE
AVERITT
SHAPIRO
ZAFFIRINI
JANEK

On the part of the Senate

EISSLER
DUTTON
KOLKHORST
HOCHBERG
BRANCH

On the part of the House

The Conference Committee Report on **HB 1270** was filed with the Secretary of the Senate.

MOTION TO RECESS

On motion of Senator Whitmire and by unanimous consent, the Senate at 6:59 p.m. agreed to recess, in memory of Randall Lee Decker of Allen; Paul Steven Habelt of Henderson County; Tony Price Ogburn of Henderson County; Alejandro Ochoa, Sr., of Edinburg; Joe Flores, Jr.; and Anselmo Martinez III of Robstown; pending the receipt of committee reports, until 10:30 a.m. Monday, May 21, 2007.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 1076 by Zaffirini, In memory of Thomas Cullin DeChant of San Antonio.

SR 1079 by Van de Putte, In memory of Balthasar Joseph "Balty" Janacek of San Antonio.

SR 1080 by Uresti and Van de Putte, In memory of David Adolph Berchermann, Sr., of San Antonio.

SR 1086 by Janek, In memory of Mary Katherine O'Neal of Alba.

SR 1087 by Janek, In memory of Private First Class Thomas James Hewett of Moffat.

SR 1095 by Van de Putte, In memory of Jose Luis Flores, Sr., of San Antonio.

HCR 114 (Estes), In memory of the Honorable John J. Gavin of Wichita Falls.

HCR 199 (West), In memory of Charlotte Ragsdale of Dallas.

HCR 203 (Nelson, Shapiro), Extending deepest sympathy to the families of the victims of the tragedy at Virginia Tech, and to the students, faculty, and staff of the university.

HCR 240 (Eltife), In memory of Robert Kim Brown of Austin.

Congratulatory Resolutions

SCR 81 by Watson, Recognizing Emmett Sheppard on the occasion of his retirement from the Texas American Federation of Labor and Congress of Industrial Organizations (AFL-CIO).

SR 1073 by Fraser, Recognizing the United States Army Operational Test Command for its service to our soldiers.

SR 1082 by Hinojosa, Recognizing the organizers and participants in the Conquer the Coast bike ride of Corpus Christi.

SR 1083 by Harris, Recognizing the United States Army Rest and Recuperation program at the Dallas-Fort Worth International Airport.

SR 1085 by West, Congratulating the Methodist Health System for its selection by the *Dallas Business Journal* as one of the top 10 large businesses to work for in the Dallas-Fort Worth metroplex.

SR 1088 by Watson, Recognizing Becker Elementary School in Austin on the occasion of its 70th anniversary.

SR 1089 by Watson, Recognizing Sanchez Elementary School in Austin on the occasion of its 30th anniversary.

SR 1090 by Watson, Recognizing Sharon Porter on the occasion of her retirement from the Office of the Comptroller of Public Accounts.

SR 1091 by Watson, Recognizing Congregation Beth Israel in Austin on the occasion of its 130th anniversary.

SR 1093 by Shapleigh, Recognizing Madeline Waters-Hunt on the occasion of her retirement from the Texas Department of Criminal Justice.

SR 1094 by Ellis, Recognizing O. H. "Bud" Frazier for his contributions to the field of cardiac medicine.

SR 1097 by Harris, Recognizing Christa McAuliffe Elementary School in Lewisville on the occasion of its 20th anniversary.

HCR 248 (Fraser), Honoring Fred H. Tally Elementary School in Kerrville on its selection as a 2006-2007 National Title I Distinguished School.

(President in Chair)

RECESS

Pursuant to a previously adopted motion, the Senate at 12:00 noon Saturday, May 19, 2007, recessed, in memory of Randall Lee Decker of Allen; Paul Steven Habelt of Henderson County; Tony Price Ogburn of Henderson County; Alejandro Ochoa, Sr., of Edinburg; Joe Flores, Jr.; and Anselmo Martinez III of Robstown, until 10:30 a.m. Monday, May 21, 2007.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Secretary of the Senate in the order listed:

May 18, 2007

ADMINISTRATION — **HCR 111**

VETERAN AFFAIRS AND MILITARY INSTALLATIONS — **HB 2398, HB 2897, HB 2895, SCR 76, HB 3879, HB 2896, HB 3787, SR 941, HCR 16, SCR 77, SCR 79, HB 1275**

FINANCE — **HB 2, HB 373, HB 2010**

JURISPRUDENCE — **CSHB 567, HB 2479** (Amended)

STATE AFFAIRS — **HB 472** (Amended), **CSHB 888, CSHB 1977**

BUSINESS AND COMMERCE — **CSHB 2060, CSHB 2106, CSHB 2120, CSHB 2960, CSHB 3440**

EDUCATION — **HB 828, HB 2399, HB 2702, HB 3485, HB 3828, HB 1748** (Amended)

JURISPRUDENCE — **CSHB 772, CSHB 782, CSHB 3199, HB 4007** (Amended)

BUSINESS AND COMMERCE — **CSHB 2118**

STATE AFFAIRS — **HB 89, HB 343, HB 1183, HB 1381, HB 1849, HB 2117, HB 2358, HB 2926, HB 3057, HB 3143, HB 3470, HB 3723, HCR 187, HJR 30, HJR 39**

GOVERNMENT ORGANIZATION — **CSHB 42**

TRANSPORTATION AND HOMELAND SECURITY — **CSHB 160, CSHB 2859**

JURISPRUDENCE — **HB 2138** (Amended)

TRANSPORTATION AND HOMELAND SECURITY — **HB 3270**

INTERGOVERNMENTAL RELATIONS — **HB 2442, HB 2218, HB 2752, HB 2099, HB 2751, HB 3998, HB 4017, HB 4019, CSSB 2055, HB 3989, HB 3988, HB 3834, HB 3518, HB 3325, HB 3038, HB 3024, HB 2917, HB 2782, HB 4018, HB 470, HB 866, HB 1318**

GOVERNMENT ORGANIZATION — **CSHB 3560**

BUSINESS AND COMMERCE — **HB 1196** (Amended), **HB 1795, HB 3147, HB 1166**

INTERGOVERNMENTAL RELATIONS — **HB 4022, HB 4024, HB 4031, HB 4046, HB 4056, HB 4061, HB 4072, HB 4074, HB 4079, HB 4080, HB 4083, HB 4084, HB 4104**

HEALTH AND HUMAN SERVICES — **HB 52, HB 1370, HB 1385, HB 1614, HB 1747, HB 1759, HB 2256, HB 2285, HB 2540, HB 2644, HB 3008, HB 2827, HB 3154, HB 3261, HB 3735, HB 4047**

JURISPRUDENCE — **CSHB 1473**

CRIMINAL JUSTICE — **HB 47, HB 199, HB 278, HB 309, HB 455, HB 485, HB 541, HB 638, HB 964, HB 1241, HB 1267, HB 1423, HB 1411, HB 1545, HB 1687, HB 1815, HB 2101, HB 2291, HB 2389, HB 2703, HB 2833, HB 2990, HB 3200**

ADMINISTRATION — **CSHB 4028**

GOVERNMENT ORGANIZATION — **CSHB 2426**

INTERGOVERNMENTAL RELATIONS — **CSHB 3517, CSHB 2641**

BUSINESS AND COMMERCE — **HB 2723**

VETERAN AFFAIRS AND MILITARY INSTALLATIONS — **HB 3396 (Amended)**

CRIMINAL JUSTICE — **HJR 6, HB 430, HB 649, HB 916, HB 1111, HB 1113, HB 1158, HB 1889, HB 2115, HB 2151, HB 2385, HB 2498, HB 2884, HB 3295, HB 3435, HB 3558, HB 3585, HB 3659, HB 3688, HB 3736**

TRANSPORTATION AND HOMELAND SECURITY — **CSHB 13, HB 2991, CSHB 3190, HB 3225**

EDUCATION — **HB 544, HB 589, HB 1250, HB 1330, HB 1427, HB 1493, HB 1775, HB 2103, HB 2532, HB 2646, HB 2864, HB 2225, HB 3171, HB 3236, HB 3291, HB 3114, HB 3934**

GOVERNMENT ORGANIZATION — **CSHB 3426, CSHB 2621**

STATE AFFAIRS — **HB 1495, HB 2823, HCR 35**

BUSINESS AND COMMERCE — **CSHB 624**

CRIMINAL JUSTICE — **HB 2112, HB 431, HB 1121**

TRANSPORTATION AND HOMELAND SECURITY — **CSHB 53**

STATE AFFAIRS — **CSHB 2365**

HEALTH AND HUMAN SERVICES — **CSHB 1786, CSHB 3064**

INTERGOVERNMENTAL RELATIONS — **HB 3991, HB 4077, HB 4006, HB 4004, HB 3223, HB 1573, HB 3982, HB 4099, HB 573, HB 1671, HB 4120, HB 4109, HB 4093, HB 3407, HB 3439, HB 3954, HB 831, HB 4123, HB 1456, HB 3873, HB 1680, HB 2091, HB 2283, HB 3182, HB 3195, HB 3355, HB 2353**

TRANSPORTATION AND HOMELAND SECURITY — **CSHB 191**

CRIMINAL JUSTICE — **HB 3131**

JURISPRUDENCE — **HB 2738 (Amended), HB 4107 (Amended)**

BUSINESS AND COMMERCE — **CSHB 3101**

STATE AFFAIRS — **HB 2006 (Amended), HB 2667 (Amended)**

JURISPRUDENCE — **CSHB 1864**

HEALTH AND HUMAN SERVICES — **CSHB 1633, CSHB 2392, CSHB 2935, CSHB 3184, CSHB 3443, CSHB 3571**

INTERGOVERNMENTAL RELATIONS — **CSHB 1742, HB 1751, HB 2087, HB 2484, HB 3674, HB 3862, HB 3979, CSHB 4045, HB 4097, HB 4098**

TRANSPORTATION AND HOMELAND SECURITY — **CSHB 3441, CSHB 3747, CSHB 2944, HB 586 (Amended)**

NATURAL RESOURCES — **HB 2892, HB 2714, HB 1254, HB 1656, HB 1841, HB 1915, HB 1920, HB 2654, HB 2713, HB 3017, HB 3070, HB 3764, HB 3770, HB 3980, HB 4009, HB 4114, HB 4111, HB 4112, HB 2070, HB 2368, HB 2417, HB 2608, HB 3098, HB 3220, HB 3266, HB 3273, HB 3300, HB 3353, HB 3438, HB 3502, HB 4010, HB 4038, HB 4041, HB 4042, HB 4043, HB 4057, HB 4067, HB 4070, HB 4101**

STATE AFFAIRS — **HB 2701, HB 1146 (Amended)**

May 19, 2007

FINANCE — **HB 14, HJR 90, HB 1207, HB 3107, HB 438, HB 618, HB 3314, HB 3315, HB 3490, HB 3491, HB 3493, HB 3494, HB 3495, HB 3496, HB 1459, HB 3319, HB 316, HB 3552, HB 3189**

TRANSPORTATION AND HOMELAND SECURITY — **HB 1857 (Amended), CSHB 3275, CSHB 2094**

NATURAL RESOURCES — **HB 3475 (Amended)**

HEALTH AND HUMAN SERVICES — **CSHB 1066, CSHB 1168, CSHB 1433, CSHB 2034, CSHB 3575**

STATE AFFAIRS — **HB 860 (Amended), HB 2564 (Amended), CSHB 945, HB 497, HB 473**

BUSINESS AND COMMERCE — **CSHB 3693, HB 1205 (Amended), HB 1467 (Amended), CSHB 3358, CSHB 3706, CSHB 1386, CSHB 2308, HB 2783 (Amended), CSHB 1372**

ADMINISTRATION — **CSHB 3609**

GOVERNMENT ORGANIZATION — **CSHB 2233, CSHB 2918**

EDUCATION — **CSHB 2237**

INTERNATIONAL RELATIONS AND TRADE — **HB 3647, CSHB 3877, HB 4069, HB 4115, HB 4116, HB 4118, HB 4119, HB 4121**

INTERGOVERNMENTAL RELATIONS — **CSHB 3232, CSHB 3581, HB 4015, CSHB 4110, CSHB 2184**

JURISPRUDENCE — **HB 319, HB 448, HB 555, HB 568, HB 1993, HB 2501, HB 2502, HB 2949, HB 3549, HB 3972, HB 3197, HB 2940, HB 2770, HB 2207**

INTERNATIONAL RELATIONS AND TRADE — **CSHB 3994**

JURISPRUDENCE — **CSHB 670, HB 779 (Amended), CSHB 1646, CSHB 1960, HB 4139 (Amended)**

INTERGOVERNMENTAL RELATIONS — HB 610 (Amended), HB 1637 (Amended), CSHB 1899, CSHB 2653, CSHB 2734, CSHB 2909, CSHB 3417, CSHB 4113

FINANCE — HB 1022, HB 2982, HB 3630, HJR 40, HJR 54

NATURAL RESOURCES — HB 820, CSHB 1310, CSHB 1457, CSHB 1526, HB 1719, HB 1932, HB 2222, HB 2346, HB 2585, HB 2769, CSHB 3559, HB 3765, HB 3984, HB 3995, HB 4014, CSHB 4029, HB 4033, HB 4044, HB 4085, HB 4096, HB 4122, HB 4134

INTERGOVERNMENTAL RELATIONS — CSHB 2063, CSHB 4016, CSHB 4091

CRIMINAL JUSTICE — CSHB 1503, CSHB 1988, CSHB 2210

NATURAL RESOURCES — HB 4034

SIGNED BY GOVERNOR

May 18, 2007

SB 336, SB 389, SB 399, SB 470, SB 671, SB 699, SB 1832, SCR 51, SCR 54

In Memory
of
Alejandro Ochoa, Sr.
Senate Resolution 1081

WHEREAS, The Senate of the State of Texas joins the citizens of Edinburg in mourning the loss of Alejandro Ochoa, Sr., who died April 18, 2007, at the age of 72; and

WHEREAS, Alejandro Ochoa, Sr., was a lifelong resident and longtime employee of the City of Edinburg; he was born in Hargill on July 17, 1934; he was a proud Marine who was wounded while he was serving his country during the Korean War; he worked for the City of Edinburg for 34 years until his retirement in 1991; and

WHEREAS, Following the death of his parents, Alejandro became a father figure for his siblings and a trusted advisor to his brother, Joe Ochoa, who has served as the mayor of Edinburg for more than 10 years; he was a man of humility who was noted for his leadership and exceptional organizational skills; and

WHEREAS, Alejandro Ochoa was a highly esteemed gentleman who was genuinely concerned for the needs of others, and he gave generously of his time and resources to his community; and

WHEREAS, He was devoted to his family and was an inspiration to others, and although he will be deeply missed, his spirit will abide in the hearts of those he loved for years to come; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby extend sincere condolences to the bereaved family of Alejandro Ochoa, Sr.: his wife, Hilda Ochoa; his sons and daughter-in-law, Alejandro Ochoa, Jr., and Rosalinda and Alberto Ochoa; his grandson, Alejandro Ochoa III; his granddaughter, Carolina Ochoa; his brother, Mayor Joe Ochoa; and his sister, Alicia O. Rodriguez; and, be it further

RESOLVED, That a copy of this Resolution be prepared for his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Alejandro Ochoa, Sr.

HINOJOSA